

# **Montgomery County Circuit Court FY2011 Case Time Processing Report**



# Montgomery County Circuit Court's Fiscal Year 2011

## Case Processing Time Report

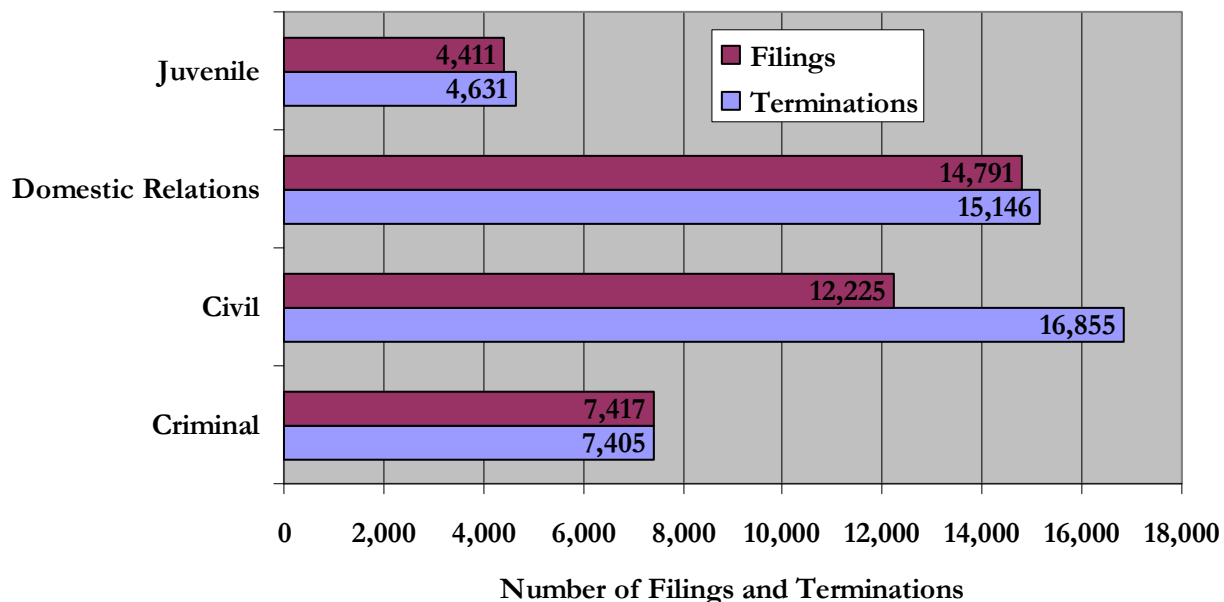
### Executive Summary

#### *Montgomery County Circuit Court Workload Performance for FY2011<sup>1</sup>*

Montgomery County Circuit Court's key workload performance measures include case filings, terminations, and clearance rates. During Fiscal Year 2011 (FY11), the Court processed 38,844 filings, which includes 22,771 original filings (59%) and 16,073 (41%) filings of reopened cases. A total of 44,037 cases were terminated in FY11, of which 27,564 (63%) were original and 16,473 (37%) were terminations of reopened cases. Case type-specific filings and terminations are presented in Chart 1. The FY11 overall clearance rate (terminations over filings, including both original and reopened case filings) is 113% compared to 99% in FY10 and 93% in FY09. Between FY07 and FY09, civil filings jumped by 42% from 11,806 to 16,790 whereas the increase in civil terminations during the same period was rather modest (27%) from 11,059 to 14,060. As a result, the civil clearance rate during that period ranged from 94% in FY07 to 84% in FY09. In FY10, the civil clearance rate improved to 98% and continued to improve to over 100% in FY11 (138%).

The noticeable increase in the overall clearance rate between FY10 and FY11 is primarily due to a large drop in filings (-13%, from 44,838 to 38,844) during that period and a minimal change in terminations (-1%, from 44,570 to 44,037). The 13% drop in the overall filings between FY10 and FY11 is driven by a 33% decline in civil filings (from 18,225 to 12,225). Similar to FY10, the clearance rates for family, criminal, and juvenile (juvenile delinquency and child-welfare combined) cases are at or above 100% in FY11. All clearance rates improved between FY10 and FY11 except for criminal cases (FY10 clearance rate: 101.2% versus FY11 clearance rate: 99.8%).

**Chart 1 Filings and Terminations by Case Type, FY11**



<sup>1</sup> Workload performance data was received from Montgomery County Circuit Court's Data Processing Department on November 3, 2011.

# Montgomery County Circuit Court Caseflow Assessment Performance for FY2011

For the purpose of the Maryland Caseflow Assessment, Montgomery County Circuit Court had 17,134<sup>2</sup> original case terminations in FY11, which is a 22% decrease from the number of FY10 terminations (22,038). Part of this large decline in terminations is due to the exclusion of foreclosures from FY11 civil terminations per a recent, temporary change to the Maryland Judiciary's statewide time standards. If foreclosures are included among civil terminations, the total FY11 terminations would increase to 22,614, which is 3% above the total terminations for FY10. Terminations for all case types increased except for civil (excluding foreclosures), juvenile delinquency, CINA non-shelter, and TPR cases. Civil terminations actually increased between FY10 and FY11 if foreclosure terminations are included in the analysis (FY10: 10,079; FY11: 10,534).

Table 1 presents the Montgomery County Circuit Court's FY11 case processing performance measured in terms of the percentage of cases closed within the state-defined case assessment time standards. The table also displays the statewide performance goals as defined by the Maryland Judiciary and the weighted statewide percentages (preliminary). Similar to the past two fiscal years, Montgomery County Circuit Court's performance in FY11 is above the state performance goal for domestic relations (DR) cases. In particular, 93% and 99% of DR cases closed within the 1-year and 2-year time standards, respectively. The Court's percentage of cases closing within the state time standards in FY11 is better than the statewide within-standard percentages (weighted) for all case types. The Court continues to aggressively manage its caseload and implement improvement initiatives as necessary, realizing that there are always opportunities for improvement.

**Table 1 Maryland Case Processing Standards and Montgomery County's FY09-FY11 Performance**

Case Type	Caseflow Time Standard	Montgomery County Terminations			Percent Within-Standard				Statewide Percentage, FY11†
		FY10	FY11	FY10- FY11	State Mandated	Montgomery County			
						FY11	FY10	FY09	
Civil	548	10,079	5,054*	-5,025	98%	98%	96%	96%	91%
Criminal	180	2,607	2,701	94	98%	96%	95%	96%	87%
DR, standard 1	365	7,776	8,034	258	90%	93%	92%	92%	88%
DR, standard 2	730				98%	99%	>99%	>99%	97%
Juvenile Delinquency	90	1,316	1,092	-224	98%	97%	96%	96%	97%
CINA Shelter	30	131	176	45	100%	81%	80%	69%	65%
CINA Non-Shelter	60	62	40	-22	100%	100%	97%	81%	89%
TPR	180	67	37	-30	100%	97%	82%	95%	54%
Total		22,038	17,134	-4,904					

\*The number of civil terminations including foreclosures is 10,534, which is a 5% increase over FY10 civil terminations.

†As of December 12, 2011, the Statewide Caseflow Assessment has not been completed. Accordingly, the statewide within-standard percentages displayed above should be considered preliminary, weighted percentages.

Across all case types, Montgomery County Circuit Court either maintained or improved performance between FY10 and FY11. In addition to domestic relations cases, which met the statewide performance goals for the 1- and 2-year time standards, civil and CINA non-shelter cases also met their respective statewide performance goals. Juvenile delinquency terminations improved their performance by one percentage point between FY10 and FY11, and TPR cases are also slightly short of their performance goal of closing 98% of cases in 180 days.

Table 2 provides the overall Average Case Time (ACT) for within-standard and over-standard cases between FY09 and FY11. There has been a notable decrease in the criminal ACT between FY10 and FY11 from 80 days to 62 days (a 23% decrease). There was also a marked decrease in the TPR ACT from 150 days to 115 days (a 23% decrease). The decrease in the overall civil ACT between FY10 and FY11 is primarily due to the exclusion of

<sup>2</sup> Since certain case sub-types are excluded from the Caseflow Assessment, the total number of terminations used for the assessment (17,134) is lower than the number of original terminations reported as the Court's total workload (27,564 terminations) in FY11.

foreclosure terminations in the FY11 data. If foreclosures were included, the overall civil ACT would be 260 days, which is an increase over FY10 (241 days).

**Table 2 Average Case Processing Time (in Days) by Case Type, FY09-FY11**

Case Type	Caseflow Time Standard	Overall, Average Case Processing Time			FY11 Average Case Processing Time	
		FY09	FY10	FY11	Within- Standard	Over- Standard
Civil*	548	226	241	162	150	780
Criminal	180	77	80	62	53	284
Domestic Relations, standard 1	365	148	150	144	119	498
Domestic Relations, standard 2	730				140	950
Juvenile Delinquency	90	47	45	46	44	111
CINA Shelter	30	34	26	26	20	49
CINA Non-Shelter	60	56	39	35	35	--
TPR	180	145	150	115	112	235

\*The FY11 Civil average case time (ACT) reflected in Table 2 excludes foreclosures.

Unlike previous fiscal years, the percentage of terminated criminal cases with trial postponements dropped from 51% in FY10 to 23% in FY11. The primary reason for this drop in criminal trial postponements is trial scheduling changes instituted in July 2010 as part of the revised Criminal Differentiated Case Management (DCM) Plan. In criminal indictment and information cases, parties attend a 4-215/Scheduling Hearing to set agreed upon trial dates, which differs from the previous practice of automatically generating trial dates. This change in practice was implemented in an effort to reduce the frequency of trial postponements due to calendar conflicts among the parties. For the other case types, the percentage of postponed cases in FY11 is as follows: civil (4%, compared to 2% in FY10), DR (2%, similar to FY10), juvenile delinquency (28%, compared to 30% in FY10), CINA shelter (27%, compared to 34% in FY10), CINA non-shelter (25%, compared to 39% in FY10, and TPR (43%, similar to FY10).

Montgomery County Circuit Court plans to conduct several additional analyses to further examine its case processing performance. For instance, early in FY2012, the Court started collecting data on the impact of mandatory settlement conferences on the outcomes of Track 3 civil cases. Preliminary analyses suggest that improvements have been made in case processing performance of Track 3 cases as measured by the number of case reaching resolution through settlements. The Court plans to perform additional analysis on this topic. Future analyses will also be performed to examine the extent to which cases resolve at scheduling, pre-trial, and other key events occurring prior to trial. Through these analyses, the Court can identify the stage of the case where timely resolution may be at risk. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to reverse a declining trend. The analysis may also help the Court develop benchmarks for the percentage of cases that should be resolved at each stage or each key court event.

Following the completion of this assessment report, meetings will be convened among pertinent court personnel to discuss lessons learned from the completion of the FY11 assessment. The discussions will focus on aligning Montgomery County Circuit Court's docket codes with the assessment variables, reviewing the current docket entry procedures of certain suspension events to improve our ability to capture those events in the caseflow data, re-evaluating the Court's current data extraction programs used to create the case assessment data, and working with the Maryland Judiciary to ensure that clear operational definitions are available for those courts whose data system is outside the Judiciary's Judicial Information System (JIS).

As noted in previous reports, ensuring that consistent and continuous data quality controls are applied across case types is critical to the integrity of the analysis and ultimately the validity of the conclusions and policy recommendations drawn from the analysis. In FY11, manual changes/corrections to the data were required in

order to accurately measure case time. Case times that are incorrectly measured may impact the conclusions about whether a particular case type is viewed as performing better or worse than in the past. Caution should also be exercised when comparing figures across fiscal years because various factors, such as data quality improvements, shifts in the composition of case terminations by sub-type, and changes in the state case time standards, may explain variations in case processing performance over time.

# Montgomery County Circuit Court's Fiscal Year 2011 Case Processing Time Report

## Abstract

In an effort to assess Montgomery County Circuit Court's case processing performance for Fiscal Year 2011 (FY11), the analysis is performed on all original terminations.<sup>3</sup> In FY11 there are a total of 17,134<sup>4</sup> original terminations (FY10: 22,038, FY09: 19,389, FY08: 19,337, FY07: 17,306) by the Circuit Court across civil (N = 5,054; FY10: 10,079, FY09: 7,746; FY08: 7,243; FY07: 6,320), criminal (N = 2,701; FY10: 2,607, FY09: 2,478; FY08: 2,613; FY07: 2,485), domestic relations (DR) (N = 8,034; FY10: 7,776, FY09: 7,440; FY08: 7,673; FY07: 6,722), juvenile delinquency (N = 1,092; FY10: 1,316, FY09: 1,384; FY08: 1,492; FY07: 1,485), child in need of assistance (CINA: N = 216; FY10: 193, FY09: 302; FY08: 246; FY07: 263), and termination of parental rights (TPR: N = 37; FY10: 67, FY09: 39, FY08: 70; FY07: 31) cases. Of the 216 CINA cases, 176 are shelter cases and 40 are non-shelter cases.

Montgomery County Circuit Court's case processing performance as measured by the percentage of cases terminated within the state-defined time standards improved or remained the same for all case types between FY10 and FY11. Civil case processing performance improved from 96% in FY10 to 98% in FY11, and met the statewide performance goal for civil cases in FY11. Criminal cases improved by one percentage point from 95% to 96%, which is similar to the performance achieved in FY09. Juvenile delinquency and CINA shelter cases also improved their performance by one percentage point. CINA non-shelter reached the statewide performance goal in FY11 by closing 100% of the cases in 60 days. TPR cases did not meet the statewide performance goal but was able to close 97% of cases in 180 days. Only one TPR case was over-standard in FY11. The performance of DR cases continues to exceed the statewide performance goal of closing 90% of cases within 1-year and 98% of cases within 2-years. In particular, in FY11, 93% of DR cases closed within 365 days and 99% of cases closed within 730 days.

When compared to the statewide weighted, within-standard percentages across case types, Montgomery County Circuit Court's performance was higher for all case types.<sup>5</sup> The Court was able to meet or exceed the state-defined time standards for DR, civil, and CINA non-shelter cases. Despite these improvements in performance, the Court continues to identify ways to address efficiency gaps. With recent revisions to the Criminal, Civil, and Juvenile DCM Plans, the Court is hopeful that further improvements will be achieved in the processing of its caseload.

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<sup>3</sup> However, the cases with following sub-case types are excluded from the assessment: adoption, asbestos, consent, domestic violence, federal tax lien, foreclosures, friendly suit, homeowners association, lien, Lis Pendens, recorded judgment, peace order, transfers from other jurisdictions for probation, voluntary placement, reopened, and restricted (sealed) cases.

<sup>4</sup> If we included foreclosures in the FY11 terminations, the total FY11 terminations would equal 22,614.

<sup>5</sup> As of December 12, 2011, the Statewide Caseflow Assessment has not been completed. Accordingly, the statewide within-standard percentages displayed above should be considered preliminary, weighted percentages.

# Montgomery County Circuit Court's Fiscal Year 2011 Data Quality Review Procedures

Since Montgomery County Circuit Court maintains its data outside the Maryland Judiciary's JIS, the Court's data quality review procedures were performed earlier than most courts. The majority of the data quality efforts were undertaken prior to the data being uploaded to the Caseflow Assessment Application. Montgomery County Circuit Court's data quality review procedures occur throughout the year and are performed on all terminated cases. However, additional data quality checks are conducted prior to uploading the case assessment data to the statewide assessment application. Provided below is a discussion of Montgomery County's data quality review process including information on the procedures undertaken to ensure the quality of the FY11 caseflow data and the procedures performed throughout the year to ensure that the case information is accurately docketed.

Montgomery County Circuit Court is committed to ensuring the quality of its data for case management purposes as well as achieving its mission of delivering justice to County residents "in an honest, fair, and efficient manner." Data quality review is a year-round, collaborative effort undertaken by Court Administration and the Clerk of the Court. Several Departments and Offices are involved in the Court's data quality review efforts including but not limited to the Criminal, Civil, Family, and Juvenile Departments under the Clerk's Office as well as the Quality Control Department, Administrative Aides Office, and Assignment Office under Court Administration. Provided below is a brief description of the integral role each Department and Office has in the Court's data quality review process:

Clerk of the Court-Civil, Criminal, Family, and Juvenile Departments and Courtroom Clerks: As detailed in Maryland Code 2-201, the Office of the Clerk of the Court was established as an independent keeper of the records to maintain their integrity in a safe and impartial manner. As part of ensuring the fulfillment of its responsibility, the Civil, Criminal, Family, and Juvenile Departments as well as the Courtroom Clerks work closely with Quality Control, Administrative Aides, Assignment Office, and Family Division Services case managers to improve data entry and correction procedures, to reconcile discrepancies in case information, and to discuss and resolve related issues.

Court Administration: The Office of Court Administration acts as a conduit for many judicial and non-judicial operations of the Court, implements the administrative responsibilities of the Court, and develops policies to enhance system performance. The caseflow assessment and the quality control of the Court's case management data were mainly performed by the Quality Control staff under the direction of the Court Administrator until December 2006 when the Court Administrator and the newly elected Clerk of the Court started collaborating to define and implement routine court data quality procedures. Designated administrative personnel perform additional reviews of the data to ensure its accuracy is maintained. Administrative staff is also responsible for making sure that the data is correctly uploaded to the Assessment Application.

Quality Control and Administrative Aides (QC/AA): Created by the Court Administrator, QC/AA's are responsible for monitoring and maintaining the quality of case information generated by various offices in the Circuit Court and developing quality improvement initiatives necessary for the system. This Division monitors the progress of civil, criminal, and domestic relations (DR) cases, audits closed cases, and works collaboratively with the Clerk of the Court's Departments to ensure the accuracy of the annual case assessment data.

Assignment Office (AO): AO is responsible for scheduling hearings and trials, and for ensuring that all events are scheduled in compliance with the Court's Differentiated Case Management (DCM) Plans. AO's staff works with the Courtroom Clerks to ensure that the outcomes of posted events are accurately reflected and updated in the Court's case management data system. If a data mismatch occurs between AO and the Clerk's Office, a report is

generated by Data Processing (DP). AO staff and the Clerk's Office personnel work together to reconcile all of the mismatched data reflected on that report.

Family Division Services (FDS): While the core function of FDS is to provide auxiliary services to parties involved in DR and juvenile cases, its family and juvenile case managers are an integral part of the Court's year-round data quality review process by checking the progress of cases and ensuring that they are in the correct posture to be before the designated judges and masters. Family Division case managers also audit all DR cases that close in the fiscal year.

Data Processing (DP): Under the Technical Services Department, DP maintains the Court's case management system and generates various case processing-related reports for Administration staff, case managers, and clerks throughout the year. The reports generated vary in purpose and include:

- Questionable Case Reports that identify cases with conflicting data entered by the Assignment Office, Courtroom Clerks, as well as Civil, Criminal, Family, and Juvenile Departments;
- Open Cases and Cases Exceeding the Court's Differentiated Case Management (DCM) Track Specifications Reports require the Court's review and possible actions to ensure efficient processing; and
- Audit Reports that print for each closed case and require verification of information associated with key case events.

During the caseload data preparation period, DP creates case type-specific detailed reports of over-standard cases for review and analysis and extracts random samples of cases that are uploaded to the Assessment Application.

Differentiated Case Management (DCM): Montgomery County was the first jurisdiction in Maryland to develop DCM plans. The goal of Montgomery County Circuit Court's DCM is two-fold: increased efficiency in case processing and reduced demand for judicial intervention at every phase of litigation. DCM achieves these goals through the early differentiation of cases entering the justice system in terms of the nature and extent of judicial/justice system resources required. Each case is assigned to the appropriate case track to allow for the performance of pre-trial tasks and the appropriate level of court resources to be afforded while minimizing processing delays. Established mechanisms avoid multiple court appearances and assure the timely provision of resources for the expeditious processing and resolution of cases on each track. The Civil and Criminal DCM plans were revised in July 2010 and the Juvenile DCM plan was revised in July 2011. The Court is currently reviewing its Family DCM plan. While the DCM and the Maryland Caseload standards operate independently and there is overlap between the two, it is important that the Court processes cases according to the DCM guidelines because strict adherence to those guidelines ensures compliance with the statewide case time standards.

In FY09, the DCM Coordinator extensively reviewed the Court's current DCM plans, its procedures and past implementation, as well as identified groups of cases for which special judicial intervention may be warranted as a means to reduce backlog or improve case processing performance. The Coordinator also works to develop mechanisms that identify and flag cases that may require the Court's intervention earlier in the case process so as to obtain a more expedient resolution and to ensure that these cases do not disrupt the Court's ability to process other cases within defined time standards. The Coordinator's continuous efforts to track and manage cases in accordance with the DCM guidelines are a key component of the Court's overall data quality efforts.

#### *Data Quality Procedures Performed Throughout the Fiscal Year*

This section focuses on the data quality checks performed throughout the fiscal year on open cases, some of which have subsequently closed and are included in the Court's FY11 caseload data. While several individuals are responsible for tracking and managing case processing, the efforts undertaken by Montgomery County Circuit Court's QC/AA staff, Family Case Managers, and Clerk's Office personnel will be highlighted below. These individuals perform routine data quality checks on all open criminal, civil, DR, juvenile delinquency and child welfare cases throughout the fiscal year. In order to maintain the accuracy of docketed information, department



managers, supervisors and lead workers oversee clerks' docket entries for questionable data. They also review the docket information printed on the audit sheets for closed cases before the files are given to QC/AA staff or Family Division Services case managers. On a weekly basis, QC/AA staff and designated clerks in the Criminal, Civil, Family, and Juvenile Departments monitor cases without future scheduled events that need the Court's close attention or immediate action, validate the data entered by the Courtroom Clerks and Assignment Office staff, and ensure that cases are being set in the proper posture. The main objective of these activities is to monitor case processing activities and the progress of open cases and to make certain that cases are disposed according to the Court's DCM Plans.

One of the major undertakings of QC staff, case managers, and the Clerk's Departments is performing audits of closed cases. During auditing, personnel from various departments compare key case information extracted from the Court's case management data in **all** closed criminal, civil, DR, and juvenile cases with the information in actual case files. Specifically, Administrative Aides audit the civil cases, Quality Control audits miscellaneous petitions and criminal cases and assists the Administrative Aides with auditing civil cases, when necessary. Family Division Services case managers audit DR cases and the Juvenile Department manager audits the juvenile cases. Examples of the key data fields audited include filing, service, and answer dates, as well as case stop date, trial settings, disposition codes, etc. The audit sheets are tailored to key information (or data fields) for each case type. As in previous years, all FY11 criminal, civil, DR, and juvenile delinquency cases were audited by court personnel. In FY09, the Court started auditing child support cases (Montgomery County Office of Child Support and Enforcement (MCOCSE)) cases, as well as auditing child in need of assistance (CINA) cases, and termination of parental rights (TPR) cases. Montgomery County Circuit Court believes that its case audits meet, if not exceeds, the '10% Review' requirement defined in the FY11 Caseflow Assessment Training Manual.

As part of continuing efforts to improve case processing performance, representatives from the Clerk of the Court's Office and Court Administration hold monthly meetings for each case type in which they identify and address any case processing issues that require inter-departmental coordination. These forums provide an opportunity to address and reconcile a variety of case processing, data programming, and procedural issues in an efficient manner.

#### *Data Quality Procedures Performed Specifically on the FY2011 Caseflow Data*

In addition to conducting audits of closed cases and performing routine checks of the accuracy of the Court's docket entries, designated court personnel performed data quality reviews during the data preparation period to generate the FY11 caseflow data. First, Data Processing compiled the cases closed in FY11 into a case type-specific database (Microsoft (MS) Access tables), which contains the mandatory and optional data fields that align with those in the State's Caseflow Assessment Application. Using the information in the database, Data Processing created reports that list all over-standard cases with the key data fields (as defined by the state time standards) for each case type (civil, criminal, DR, juvenile delinquency, CINA and TPR). The information is reviewed by Quality Control staff, Court Administrative staff, and the Court Researchers to ensure the accuracy of the data, which has already been audited, and to identify the reasons why cases are over-standard through reviewing the docket entries contained in the Court's data management system. For FY11, the data quality review primarily focused on docket entry errors as opposed to explaining why a case was over-standard. Review of the FY11 data also focused on cases with missing suspension start or stop dates. In particular, missing suspension begin and end dates were identified by comparing caseflow data contained in the MS Access tables, the Court's case management system, actual case files and occasionally information obtained from *CourtSmart*. Questionable cases were then provided to Court Administrative staff for reconciliation.

#### *Additional Data Quality Review Procedures Performed on the FY2011 Caseflow Data*

Finally, the Court Researchers performed additional data quality checks on the caseflow data. The researchers primarily focused on missing or questionable caseflow assessment event dates, the calculation of the case time, and questionable data that had been overlooked during the more intensive and targeted data reviews. For example, the Court Researchers recalculated the case processing time based on the information available from the data and

compared it with the case time originally calculated by DP to ensure that all the valid suspension events were taken into account and that the correct time was reflected. In the past, this analysis revealed the omission of particular types of suspension events or instances where the suspension end dates were not appropriately extracted. The Court Researchers also checked and verified the cases with negative case times and missing start dates in order to fulfill the caseflow requirement of performing an ‘initial data quality review.’ All reviews were conducted initially by checking the information from the Court’s case management data and then with the actual case files when necessary. In this sense, the checks performed by the Court Researchers closely aligned with the caseflow’s initial data quality review, and served as the final review before any analyses were performed.

### *Characteristics of the Questionable Data Uncovered during the Data Quality Reviews*

During this fiscal year’s review of the caseflow data, some of the questionable data uncovered included incorrect docket codes used to inactivate or close a case, as well as challenges in capturing the appropriate suspension end date. For example, a common challenge with the Competency/Not Criminally Responsible (NCR) suspension event in criminal cases is that judges do not always orally state that the defendant is competent, which results in a docket entry not being entered into the computer system. The FY11 Caseflow Assessment Training Manual addresses this challenge by allowing courts to enter the date of the “next concluded or continued scheduled event” when no docket entry code is available. However, by using the next concluded/continued scheduled event more time is being taken out than is necessary because once that event is scheduled by the Court a determination has been made that the defendant is competent and not NCR. Therefore, court staff had to manually enter the appropriate competence/NCR date for several criminal and a few juvenile cases in the FY11 data. Additional discussions will occur with the Court’s Data Processing Department to determine whether these scenarios can be captured programmatically so that manual edits can be minimized. It may also be appropriate to modify the statewide requirements for this suspension end date so that extra time is not being removed as part of the competency/NCR suspension event. The researchers also found inconsistencies or missing docket entries when the Court processes multiple criminal cases simultaneously as consolidated cases or through administratively joining them.

During the reviews of civil cases, the Court experienced several challenges related to correctly identifying the status changes of multiple defendant cases. Accurately tracking changes in case status is important because Montgomery County Circuit Court suspends case time only when a case goes inactive, and the presence of multiple defendant cases creates challenges identifying the point at which a case goes inactive. For example, it can be difficult for staff to identify the appropriate case status when a multiple defendant case has one defendant in bankruptcy yet the case initially remains active as to the other defendants. When those ‘active’ defendants receive their judgments, the case status should change from active to inactive if the defendant (initially in bankruptcy) remains in bankruptcy. In addition, the suspension start date in this case would no longer be the ‘suggestion of bankruptcy’ but rather the date the case went inactive (following the judgments received on the defendants who were not in bankruptcy). The Court has discussed how best to capture suspension data in multiple-defendant cases; however, the solutions are challenging and compounded by resource limitations. Another challenge in civil cases is the presence of multiple suspension events of the same kind. For instance, it is common to have multiple bankruptcy suspension events in a case. The programming pulls the first bankruptcy suspension event when often times the longer suspension is associated with the second or third bankruptcy suspension event. Since the Caseflow Assessment Application only allows for one bankruptcy suspension event, researchers have to manually identify the suspension start and end dates for the longest suspension event when multiples of the same kind exist.

A few examples of questionable case information uncovered in juvenile delinquency and child welfare cases include:

- Efforts were undertaken early in FY09 to address challenges with capturing the suspension end dates associated with the orders for a Pre-Disposition Investigation (PDI) report and Pre-Disposition Treatment (PDT) program. Since these initiatives were implemented mid-FY09, a number of instances occurred where these suspension events had a missing suspension end date. To reconcile this issue, the Court staff reviewed actual

case files to determine whether the reports or notations related to the reports existed. Modifications were made to the data where appropriate. It is important to note that in FY11 most of the missing suspension end dates did not impact case processing time but rather “muddied” the data. That is, multiple docket entry codes are being used to populate different suspension events because such events are not mutually exclusive. The PDI Report is a generic name for a social history report performed by the Department of Juvenile Services. The PDI may include a psychological evaluation, which is also defined as a caseflow suspension event. Discussions will occur with the Court Researchers, Data Processing, Court Administration, the Juvenile Department Manager, and the Supervising Juvenile Case Manager to determine how best to docket and capture the key juvenile delinquency suspension elements to minimize manual data corrections for the data contained in the case processing report and to ensure that the data accurately reflects the case file.

- The main questionable data element uncovered in child welfare cases was the status change in CINA cases from Shelter to Non-Shelter status and vice versa. While not an overwhelming problem in FY11, the Juvenile Department is ensuring that when a child’s placement changes multiple times prior to adjudication all status changes are noted in the data system. This also requires a programming change to ensure that the appropriate placement status is tracked in the assessment data. According to the time standards, the last status change prior to adjudication determines whether a CINA case is characterized as shelter or non-shelter.

In domestic relations cases, the main data quality/check issues included the inclusion of cases that were supposed to be excluded from the caseflow assessment such as transferred-in cases and recorded judgment cases, and the verification of the case stop date, which in some cases were incorrectly extracted from the source data.

When issues are identified, court personnel take a multitude of steps to reconcile the inconsistencies such as listening to *CourtSmart*, contacting attorneys about the status of an issue, and meeting with clerks and case managers to resolve the issue. Also, DP is involved in reconciling questionable case information that is uncovered during the data quality review processes.

# Montgomery County Circuit Court's Fiscal Year 2011

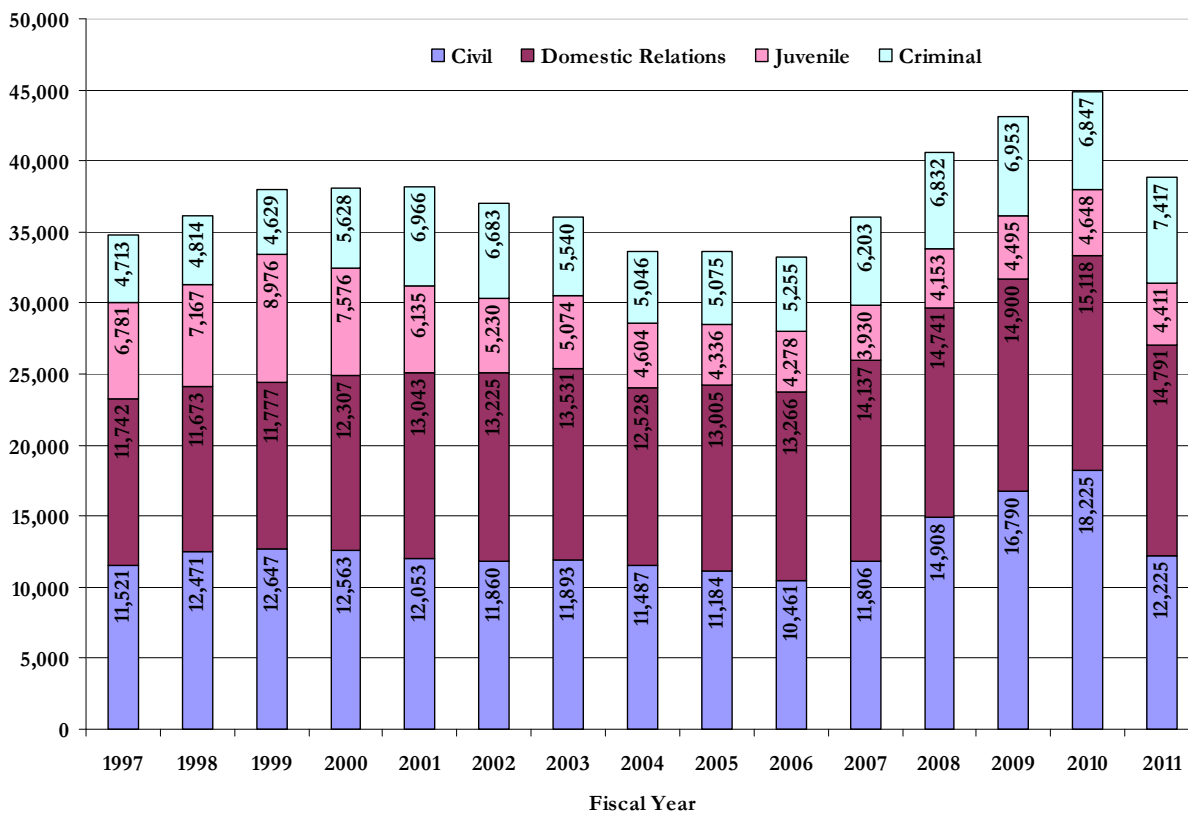
## Workload Performance

Prior to discussing the case processing performance results, it is important to review the Court's workload for FY11. There are several measures of workload performance; however, those briefly discussed in this report include: filings, terminations, and clearance rates. The charts highlighted below display the pattern of workload performance for the past 15 years.

### *Filings by Case Type, FY97 – FY11*

Chart 1 reveals that filings (original and reopened) decreased across all case types except criminal between FY10 and FY11. The greatest decrease in filings between FY10 and FY11 occurred among civil cases (33%) primarily due to a 51% decrease in civil Track N cases, which include foreclosure filings. The domestic relations filing totals for FY11 decreased back to their FY2008 level, and juvenile filing totals decreased to their FY2009 level. Between FY97 and FY10, civil filings increased by 58% only to decrease by a comparable amount between FY10 and FY11. The percentage change between FY97 and FY11 is 26% for domestic relations case filings, 57% for criminal case filings, and -26% for juvenile case filings.

**Chart 1 Filings by Case Type, FY97-FY11**



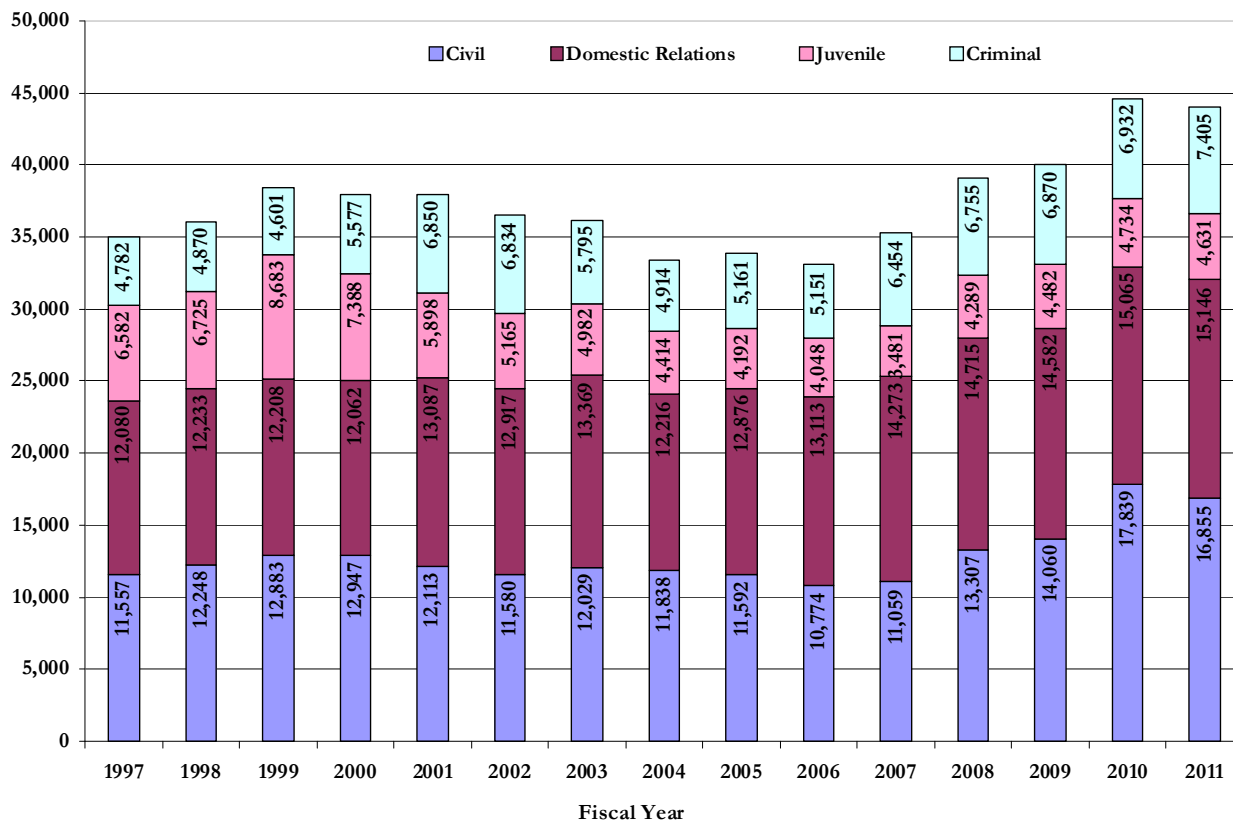
Source: PERFONEW

\* Includes reopened filings and Register of Wills filings. Juvenile cases include the following case types: adoption, child in need of assistance, child in need of supervision, delinquency, guardianship, peace order, voluntary placement, and other unreported category. Juvenile data from FY1997 to FY2002 is from the Administrative Office of the Courts, Maryland Judiciary.

## Terminations by Case Type, FY97–FY11

Chart 2 displays the total number of terminations (original and reopened) by case type between FY97 and FY11. It is important to note that the terminations displayed will not mirror the terminations included in the case processing performance analysis because the workload information includes terminations of reopened cases as well as original terminations of certain case sub-types that are excluded from the performance analysis. Case terminations decreased across all case types between FY10 and FY11 except for criminal. In particular, civil terminations decreased by 6%, DR terminations decreased by 1%, juvenile terminations decreased by 2%, and criminal terminations increased by 7%. While civil cases experienced the greatest decrease in filings between FY10 and FY11, they also experienced the greatest decrease in the number of terminations during the same period. Since FY97, the greatest increase in terminations occurred among criminal cases (55%) followed closely by civil cases (46%).

**Chart 2 Terminations by Case Type, FY97-FY11**

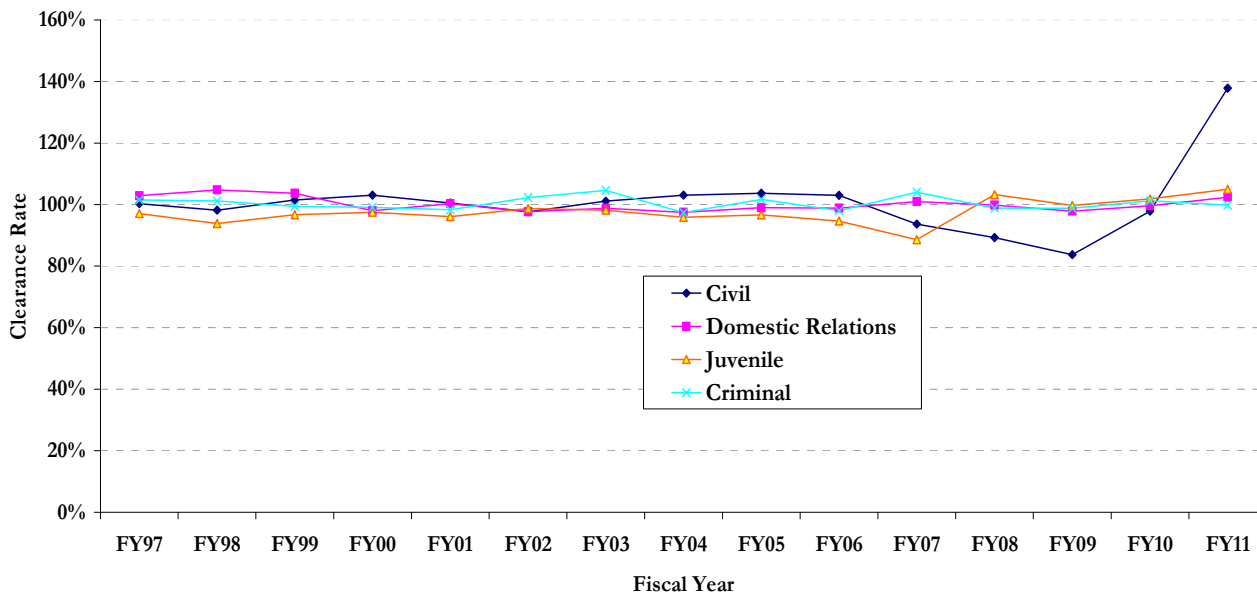


Source: PERFONEW

\* Includes reopened filings and Register of Wills filings. Juvenile cases include the following case types: adoption, child in need of assistance, child in need of supervision, delinquency, guardianship, peace order, voluntary placement, and other unreported category. Juvenile data from FY1997 to FY2002 is from the Administrative Office of the Courts, Maryland Judiciary.

The clearance rate is one of the workload measures used to assess how efficiently a court is processing its cases. The clearance rate, which is calculated by dividing the number of case terminations for a given period by the number of filings for the same time period, measures whether the court is keeping up with its incoming caseload or is unable to process efficiently the upcoming caseload, thus creating or increasing a backlog. At a minimum, courts should strive to dispose of as many cases as have been filed and reopened in a given period, thus maintaining a clearance rate of 100%. The FY11 overall clearance rate that combines original and reopened cases for the Montgomery County Circuit Court is 113%. The clearance rate for original cases is 121% while that for reopened cases is 102%. Between FY07 and FY09, the civil clearance rate ranged between 94% and 84%. In FY10 and FY11, the civil clearance rate improved to 98% and 138%, respectively. The continued increase in the civil clearance rate between FY10 and FY11 is primarily due to the dramatic decrease in civil filings and the Court’s ability to sustain its termination level. Similar to FY10, the clearance rates for family, criminal, and juvenile cases are at or above 100% in FY11.

**Chart 3 Clearance Rate by Case Type, FY97-FY11**



Note: Clearance rates were calculated by using the data in PERFONEW.

\* Includes reopened filings and Register of Wills filings. Juvenile cases include the following case types: adoption, child in need of assistance, child in need of supervision, delinquency, guardianship, peace order, voluntary placement, and other unreported category. Juvenile data from FY1997 to FY2002 is from the Administrative Office of the Courts, Maryland Judiciary.

# Civil Case Terminations

## Fiscal Year 2011 Case Terminations

### A. Civil Case Processing Definitions and Summary

	Civil Case Time Definitions	Percent Within 18-month (548 days) Standard	Additional Montgomery County Measurements
<b>Civil Case Standards and Montgomery County Measures</b>	<p><u>Case Time Start:</u> Filing of case.</p> <p><u>Case Time Stop:</u> Disposition, dismissal or judgment.</p>	<p><u>State-Set Goal:</u> 98%</p> <p><u>Montgomery County:</u>            CY 2001: 95%▲            CY 2002: 94%▲            CY 2003: 94%▲            FY 2005: 96%            FY 2006: 95%            FY2007: 94%            FY2008*: 95%            FY2009: 96%            FY2010: 96%            FY2011: 98%▲         </p>	<p><u>Filing to Service or Answer, whichever comes first:</u>            CY 2001: 49 days▲            CY 2002: 44 days▲            CY 2003: 33 days▲            FY 2005: 45 days            FY 2006: 42 days            FY 2007: 40 days            FY2008: 41 days            FY2009: 52 days            FY2010: 43 days†            FY2011: 30 days▲         </p> <p><u>Average Case Processing Time:</u>            CY 2001: N/A▲            CY 2002: 291 days▲            CY 2003: 285 days▲            FY 2005: 206 days            FY 2006: 209 days            FY 2007: 222 days            FY2008: 213 days            FY2009: 226 days            FY2010: 241 days            FY2011: 162 days▲         </p>
<p>Note: Civil case time is suspended for bankruptcy, non-binding arbitration, interlocutory appeal, body attachment, military leave, mistrial, and stay for receivership.</p> <p>* FY08 is based on a sample of 509 civil cases.</p> <p>† The FY2010 figure was calculated by the Court Researchers using all civil terminations whereas CY2001-FY2009 figures were calculated by the Data Processing (DP) Department using a random sample of the civil termination population. Differences in the FY2010 figures compared to the previous years' figures may also exist because at the time of DP's calculation not all data quality changes were reflected in the Court's locked down data.</p> <p>▲ In CY2001, CY2002, CY2002, and FY2011, the Maryland Judiciary excluded foreclosures from the analysis of civil performance.</p>			

### Overall Civil Case Terminations

Table A.1 displays the number of original civil case terminations, as well as case processing performance by termination status for Fiscal Years 2004-2011 (FY04-FY11).<sup>6</sup> As displayed in the table, the number of original, civil terminations has increased steadily since FY06. Between FY06 and FY10 there was an 82% increase in original, civil terminations from 5,545 to 10,079. The increase in civil terminations mimics the trend in original, civil filings, which were also increasing during this period from 10,461 in FY06 to 18,225 in FY10 (74%). The increase in civil filings during this period was primarily due to an increase in foreclosure filings.

<sup>6</sup> Please note that for FY08 a random sample of civil case terminations was analyzed, and therefore, the total number of sampled cases is noted in Table A.1.

In the past, foreclosures required limited judicial involvement and, for Montgomery County Circuit Court, were generally processed well within the 548-day time standard resulting in (if anything) a positive impact on overall, civil case processing performance. However, while civil case processing performance held unchanged at approximately 96% over the past few fiscal years despite increases in foreclosure filings, performance began to falter in FY11. In FY11 when we include foreclosures, the total number of original, civil terminations increased by 5% over FY10 (10,534 compared to 10,079, respectively), and performance decreased by two percentage points to 94%. The decline in civil case processing performance in FY11 is likely the result of a variety of factors including but not limited to the unprecedented increases in foreclosure filings and several new initiatives implemented statewide to ensure the integrity of the legal documents filed by the lenders in these cases. For instance, in October 2010, the Maryland Court of Appeals adopted Rule 14-207.1 and amended Rule 14-207 to give Courts the authority not only to review foreclosure cases for legal deficiencies and dismiss those cases whose deficiencies were not cured, but also to conduct show cause hearings to obtain testimony from affiants and notaries regarding sworn pleadings that appear not to have been signed by the affiant, not to have been properly notarized, or to have been sworn to by affiants without a sufficient basis of knowledge to do so. In addition, the courts were authorized to appoint Special Masters and/or Examiners to undertake the reviews and conduct such hearings. The review of foreclosure cases in combination with the show cause hearings complicated and extended the ratification process, but was a necessary response to ensure the integrity of foreclosures being handled by Maryland courts. In recognition of these circumstances, the Maryland Judiciary has excluded foreclosures from its reporting of civil case processing performance for FY11. As displayed in Table A.1, when excluding foreclosures, 98% of civil cases closed within the 548-day time standard (N = 4,963) in FY11. FY11 is the first year that the Court met the statewide performance goal for original, civil terminations. The average case time (ACT) for these civil terminations is 162 days. Among within-standard civil terminations, the ACT is 150 days whereas among over-standard terminations the ACT is 780 days.

**Table A.1 Number of Civil Case Terminations FY04-FY11**

Fiscal Year	Terminations		Within-Standard Terminations (18-month Standard)			Over-Standard Terminations (18-month Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY04	3,415	198	3,271	96%	173	144	4%	774
FY05	6,022	206	5,742	95%	173	280	5%	898
FY06	5,545	209	5,283	95%	174	262	5%	915
FY07	6,320	222	5,936	94%	173	384	6%	978
FY08**	509**	213	485	95%	176	24	5%	952
FY09	7,746	226	7,425	96%	205	321	4%	716
FY10	10,079	241	9,670	96%	222	409	4%	699
<b>FY11†</b>	<b>5,054</b>	<b>162</b>	<b>4,963</b>	<b>98%</b>	<b>150</b>	<b>91</b>	<b>2%</b>	<b>780</b>
<b>FY11‡</b>	<b>10,534</b>	<b>260</b>	<b>9,925</b>	<b>94%</b>	<b>234</b>	<b>609</b>	<b>6%</b>	<b>684</b>

\* ACT = Average Case Time, in days.

\*\* The full civil caseload for FY08 is 7,243. The 509 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

† The FY11 case processing performance reflected excludes foreclosures.

‡ The FY11 civil case processing performance reflected includes foreclosures.

Since FY11 is the first year since Calendar Year 2003 (CY03) that foreclosures are excluded from the statewide performance analysis, it is useful to examine Montgomery County Circuit Court's civil performance with foreclosures so that comparisons can be made with previous years. The last row of data presented in Table A.1 display civil performance with foreclosures. Between FY10 and FY11, the overall ACT for civil cases (with foreclosures) increased by 19 days (8%). This increase in the overall ACT is mainly due to an increase in the processing of within-standard cases from 222 days to 234 days (5%). The over-standard ACT for civil cases (with foreclosures) slightly decreased between FY09 and FY10 by 17 days (2%, from 716 to 699 days) following a marked decrease by 236 days that occurred between FY08 and FY09. This decrease continued (at the same rate) in FY11



where the over-standard ACT reduced by 15 days (2%). Reductions in the over-standard ACT between FY08 and FY11 for civil cases (with foreclosures) are primarily attributable to data quality efforts undertaken by both the Office of the Clerk of the Court and Court Administration, as well as procedural changes implemented by the Court to manage its civil caseload. For example, upon the passage of 14-207.1, the Court developed and implemented a comprehensive, multistage screening process to review files and issue notices of contemplated dismissal or conduct show cause hearings to address legal deficiencies in the pleadings and ensure integrity in the sworn affidavits filed in foreclosure cases. These systematic reviews also address the backlog of foreclosure cases, many of which ground to a halt as law firms and lenders evaluated their practices and cases to determine which might proceed and which needed to be dismissed, a process that continues during the current fiscal year. The full impact of this measure on case processing performance was expected to be realized in FY11, which may explain further reductions in the over-standard civil ACT (from 699 in FY10 to 684 in FY11, when foreclosures are included).

Despite these case and data management efforts undertaken by Montgomery County Circuit Court to ensure the efficient processing of foreclosure cases, other efforts undertaken outside of the court such as foreclosure mediation offered through Maryland's new Foreclosure Mediation Law, which became effective July 1, 2010 (FY11) may have had the opposite effect on case processing performance. The goal of the law is to help homeowners get relief through a loan modification if they qualify or to find an alternative to foreclosure (<http://mdhope.dhcd.maryland.gov>). Once the mediation request is filed with the Circuit Court, the court refers the request to the Office of Administrative Hearings, who must conduct the mediation within 60 days after it receives the request. The time allowed for foreclosure mediation may have offset some of the time-saving efforts undertaken by the Court to improve foreclosure case processing or, in the alternative, may have resulted in the early resolution of a proportion of these cases. A clear understanding of the impact of foreclosure mediation will require a more detailed analysis as case closures may have been more expedient as a result of mediation.

**Table A.1a Number of Foreclosure and Non-Foreclosure Terminations, Average Case Time (ACT), and Within-Standard Percentage (WST%), FY08-FY11**

	FY08			FY09			FY10			FY11		
	N	Overall ACT*	WST%	N	Overall ACT*	WST%	N	Overall ACT*	WST%	N	Overall ACT*	WST%
<b>Foreclosures</b>	2,879	202	97%	2,899	286	97%	4,938	294	95%	5,480	351	91%
<b>Non-Foreclosures</b>	4,364	261	92%	4,847	190	95%	5,141	191	97%	5,054	162	98%
<b>Total</b>	7,243	237	94%	7,746	226	96%	10,079	241	96%	10,534	260	94%

\* ACT = Average Case Time, in days.

Table A.1a displays the performance of foreclosure cases compared to non-foreclosure civil cases between FY08 and FY11. Performance of non-foreclosure civil cases has improved significantly between FY08 and FY11. In particular, the overall ACT of non-foreclosure cases decreased from 261 days in FY08 to 162 days in FY11, and the within-standard percentage for these cases improved from 92% in FY08 to 98% in FY11. In contrast to the improved performance of non-foreclosure, civil cases the performance of foreclosure cases has declined between FY08 and FY11. Specifically, the overall ACT for foreclosures has increased from 202 days in FY08 to 351 days in FY11 (a 74% increase), and the within-standard percentage among foreclosure cases has decreased from 97% in FY08 to 91% in FY11.

Another way to increase our understanding of civil case processing performance is to examine a variety of civil case characteristics including but not limited to sub-type, track assignment, and the frequency of trial postponements. Chart A.1 displays the percentage distribution of *all* civil case sub-types (including foreclosures) for FY11. The most representative sub-types for FY11 (similar to FY10) are: foreclosure (52%, FY10: 49%, FY09: 37%), other law (15%, FY10: 14%, FY09: 18%), and contract (13%, FY10: 17%, FY09: 18%). When excluding foreclosures, motor and other torts become more prevalent, representing 10.4% of non-foreclosure, civil cases in FY11.

**Chart A.1 Distribution of Civil Case Sub-Types, FY11**

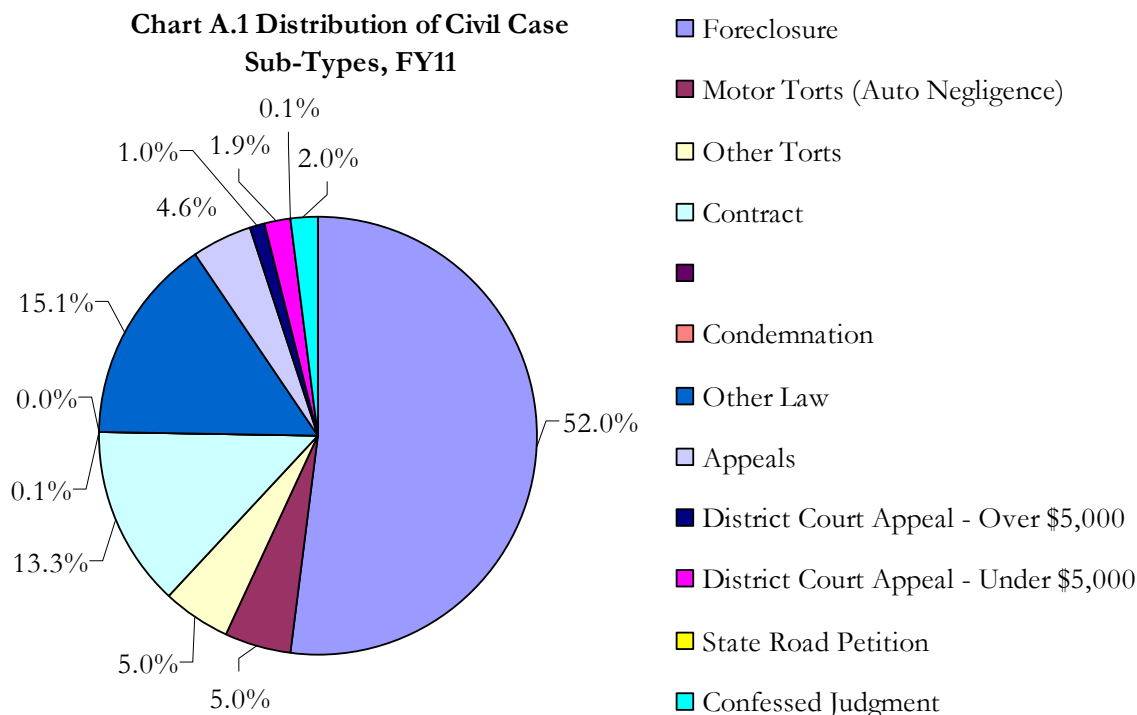


Table A.2 displays the distribution of terminations by civil sub-types and termination status for FY11. Note that foreclosures are analyzed separate from the other civil sub-types. Foreclosures represent 52% of original, civil terminations in FY11, and they represent 85% of all over-standard civil terminations. Aside from foreclosures, torts (motor: 14%, other: 41%), contracts (23%), other law (15%) are most prevalent among the over-standard terminations. When comparing the percentage of case sub-types closing over-standard given their representation in the civil termination population, condemnation cases represent over a quarter (29%) of the over-standard civil cases yet represent less than one percent of the FY11 civil case terminations. However, the number of condemnation cases is so low ( $N = 7$ ), it may be more useful to focus on the performance of other sub-types such as torts. It will be also useful for the Court to continue its efforts to track and manage the process of foreclosure cases.

**Table A.2 Distribution of Civil Case Sub-Types by Termination Status, FY11**

Civil Case Sub-Type	All Cases		Within-Standard		Over-Standard		% of Over-Standard among All Cases
	N	%	N	% of WST*	N	% of OST*	
Motor Torts (Auto Negligence)	527	10%	514	10%	13	14%	2%
Other Torts	525	10%	488	10%	37	41%	7%
Contracts	1,398	28%	1,377	28%	21	23%	2%
Condemnation	7	<1%	5	<1%	2	2%	29%
Other Law	1,589	31%	1,575	32%	14	15%	1%
Appeals	488	10%	485	10%	3	3%	1%
District Court Appeals - Over \$5,000	104	2%	103	2%	1	1%	1%
District Court Appeals - Under \$5,000	201	4%	201	4%	---	---	---
State Road Petition	8	<1%	8	<1%	---	---	---
Confessed Judgment	207	4%	207	4%	---	---	---
Total	5,054	100%	4,963	100%	91	100%	2%
Foreclosures	5,480	52%	4,962	50%	518	85%	9%
Total	10,534	100%	9,925	100%	609	100%	6%

\* WST: within-standard; OST: over-standard

Seventy-three percent of the civil sub-types met or exceeded the state goal of closing 98% of cases within the 548-day time standard (compared to 44% in FY10 and 55% in FY09). The analysis of civil sub-types further confirms the improvement in the processing of non-foreclosure civil cases as briefly discussed above. For the three sub-types that failed to meet the performance goal (i.e., foreclosures, other torts, and condemnation), the case processing performance is as follows: 91% for foreclosures, 93% for other torts, and 71% for condemnations. Additional analyses may be of interest such as examining the average case time by sub-type or disposition type.

Table A.3 (see below) provides the distribution of case processing times among over-standard civil cases for FY07 through FY11. The bolded sections of the table reflect the FY11 over-standard distribution of: 1) civil cases excluding foreclosures, 2) civil cases including foreclosures, and 3) only foreclosure cases. The case times identified at the 5<sup>th</sup> through 25<sup>th</sup> percentiles are comparable for all three over-standard civil depictions for FY11. It is at the 75<sup>th</sup>, 90<sup>th</sup>, and 95<sup>th</sup> percentiles where the calculated average case times begin to diverge for over-standard cases. Across these three percentiles, the over-standard average case times are consistently lower when foreclosures are included as opposed to when they are excluded. The maximum case time value in FY11 is 2,228 days (in an Other Law case), which is 142 days longer than the maximum value present in FY10.

Of the 91 over-standard civil cases in FY11 (excluding foreclosure), 23% closed within one month over the 548-day time standard (N = 21), and 50% closed approximately 4 months over the time standard (N = 46). Thirteen non-foreclosure civil cases in FY11 have case times greater than 1,000 days ranging from 1,015 days to 2,228 days. An additional review of these 13 cases was performed to ensure that the case was properly disposed. Based on the review, modifications were made to the docket entries of some cases. Several of these over-standard civil cases contained multiple bankruptcy suspension events, stays pending settlement or receivership<sup>7</sup>, or multiple notices requesting that parties file the appropriate documents to move forward with the case. It is important to note that a case may close beyond the civil 548-day time standard for a variety of reasons such as the presence of trial postponements, summonses being reissued multiple times, reissuance of scheduling orders, and deferrals of Maryland Rule 2-507. Recognizing diminishing effectiveness of its DCM Plans in achieving the timely resolution of cases, the Court engaged in a systematic review of the plans during FY10. The revised Civil DCM plan was introduced in July 2010 and appears to have made a positive impact on case processing of the non-foreclosure civil caseload as discussed in more detail below. While the Maryland Judiciary has formally excluded foreclosures from the FY11 statewide performance analysis, Montgomery County Circuit Court continues to track the management of these cases considering they represent over 50% of original, civil terminations. Despite increases in the level of management required for these cases, performance of non-foreclosure civil cases does not appear to have been overwhelmingly impacted. With an 86% drop in original, foreclosure filings between FY10 and FY11 (from 6,957 to 989 original filings, respectively), court staff may be able to address backlogged and other problematic civil cases during FY12.

**Table A.3 Distribution of Over-Standard Civil Cases by Clock Time, FY11**

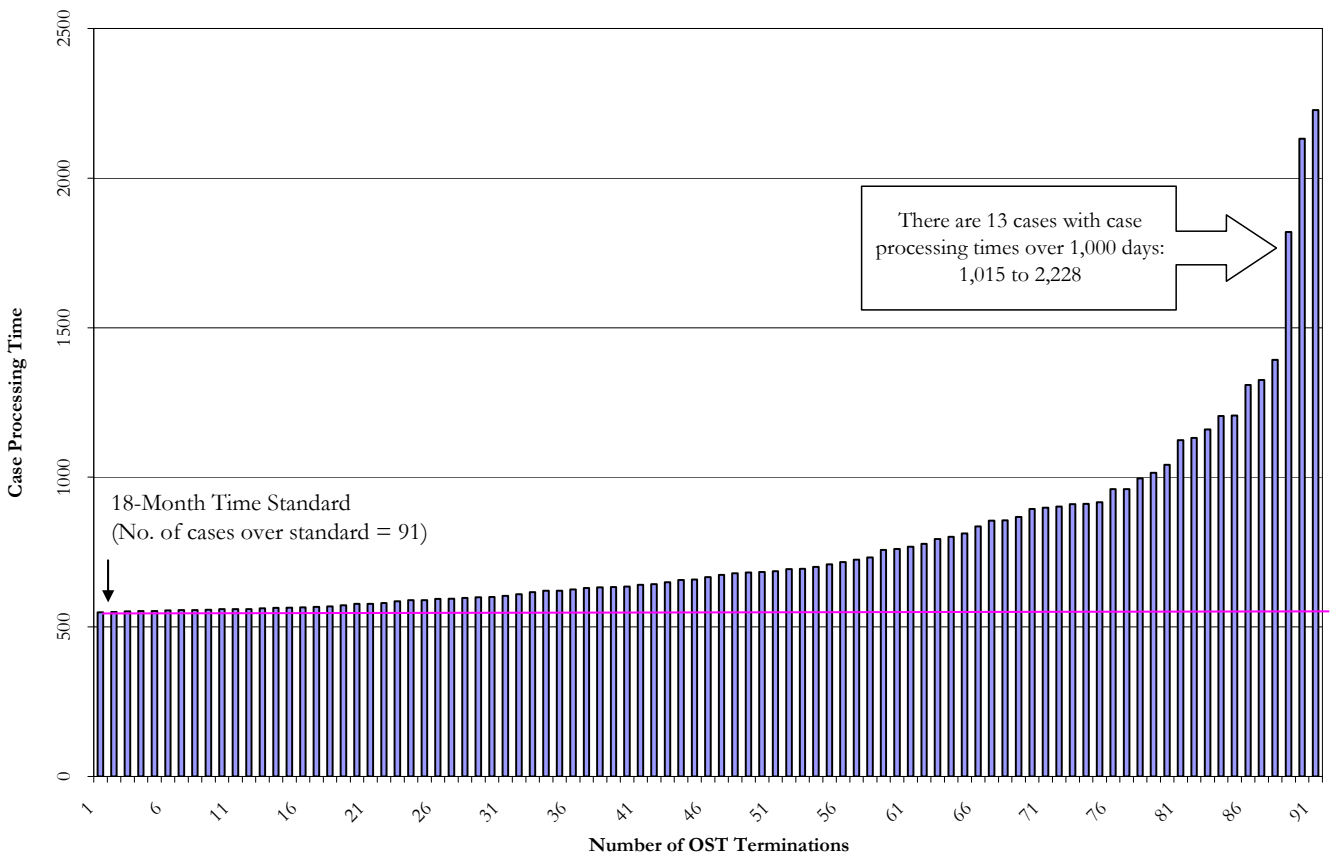
Fiscal Year	N	Mean	Median	Percentile						Maximum
				5	10	25	75	90	95	
FY07	384	978	721	558	567	616	954	1,710	2,662	6,038
FY08*	24	952	815	558	565	612	986	1,255	3,438	4,158
FY09	321	716	653	553	560	584	767	931	1,100	1,967
FY10	409	699	644	554	561	584	760	864	970	2,086
<b>FY11†</b>	<b>91</b>	<b>780</b>	<b>666</b>	<b>553</b>	<b>557</b>	<b>585</b>	<b>867</b>	<b>1,154</b>	<b>1,352</b>	<b>2,228</b>
<b>FY11‡</b>	<b>609</b>	<b>684</b>	<b>635</b>	<b>557</b>	<b>565</b>	<b>589</b>	<b>714</b>	<b>856</b>	<b>971</b>	<b>2,228</b>
<b>FY11♦</b>	<b>518</b>	<b>667</b>	<b>632</b>	<b>559</b>	<b>566</b>	<b>589</b>	<b>708</b>	<b>825</b>	<b>891</b>	<b>1,260</b>

† The FY11 over-standard distribution reflected excludes foreclosures.

‡ The FY11 over-standard distribution reflected includes foreclosures.

♦ The FY11 over-standard distribution reflects only foreclosure cases.

<sup>7</sup> In FY11, the statewide time standards allowed the time associated with the stay for receivership to be excluded from the calculation of case time, which was done manually by the court researchers.



**Figure A.1 Civil case terminations that are over the 548-day standard (excluding foreclosures), FY11**

### *Case Terminations by Track*

According to the Court's Civil Differentiated Case Management (DCM) Plan, which was revised in FY10 and implemented at the beginning of FY11, there are eight tracks for civil cases. A brief description of each follows:

- Track 0: Legal cases with no discovery, or legal issues not requiring formal discovery. This track includes the following types of cases: District Court appeals, injunctions, mechanic's liens, restraining orders, administrative appeals, mandamus cases, judicial release cases, declaratory relief, forfeiture (money or vehicles), landlord and tenant jury demands and appeals, and sale in lieu of partition (excluding divorce).
- Track 2: Expedited – ½ day to 1 day trial estimate. This track (primarily) includes the following types of cases: workers' compensation and civil jury demands from the District Court.
- Track 3: Routine – 2 to 3 day trial estimate. This track includes the following types of cases: auto negligence-personal injury and property damage, negligence-personal injury, property damage, and slip and fall, breach of agreement, breach of contract, negligent entrustment, violation of rights, defamation of character-negligence, wrongful discharge, etc.
- Track 4: Complex – 4 or more days trial estimate. This track includes the following types of cases: medical malpractice, legal malpractice, abuse cases, fraud cases, defamation of character, etc.
- Track 5: Expedited – business and technology immediate service.
- Track 6: Standard – business and technology standard.

Track 7: Expedited - Advanced Science and Technology Adjudication Resource (ASTAR).

Track 8: Standard - Advanced Science and Technology Adjudication Resource (ASTAR).

“Track” N: Non-tracked cases - Administratively tracked/non-litigation. For FY11, the majority of Track N civil case terminations consist of foreclosures (88%). The track analysis described below excludes foreclosures per a recent modification to the Maryland Judiciary’s time standards.

Table A.4 displays case processing performance for within- and over-standard civil cases by DCM track. There are two “Total” rows displayed in this table: one that excludes foreclosures and one that includes foreclosures. The analysis of case processing performance by track is only performed for non-foreclosure civil cases. Tracks 0, 2, and 3 represent 27%, 32%, and 22% of the FY11 civil case terminations, respectively. With the exclusion of foreclosures from the civil track analysis, Track N cases only represent 15% of the FY11 civil terminations. The cases assigned to Tracks 0, 2, and 3 represent 81% of the civil terminations. Track 4 cases represent 3% of the FY11 civil terminations whereas in FY10 they represented only 1% of the case terminations. The greater percentage (or representation) of Track 4 cases among civil terminations in FY11 is primarily due to the smaller population of civil terminations, which excludes foreclosures. If foreclosures were included in the civil track performance analysis, Track 4 cases would only represent 1% of the civil terminations. Similar to previous years, cases assigned to Tracks 5, 6, and 8 constitute less than 1% of all civil terminations. Track 5 cases have the highest ACT at 666 days (440 days in FY10, and 654 days in FY09), followed by cases assigned to Tracks 8, 6, and 4 (600, 394, and 393, respectively). It is important to note that there are only 4 cases assigned to Track 5 and 1 case assigned to Track 8.

In FY11, civil cases assigned to Tracks N, 0, and 2 exceed the statewide performance goal of closing 98% of cases within 548 days. Track 3 almost met the state compliance standard with a within-standard percentage of 97%. Unlike FY10, a greater percentage of civil cases assigned to Track 4 closed within-standard (78% in FY11 compared to 67% in FY10). However, similar to previous fiscal years, even though Track 4 cases represent a small proportion of civil case overall (<1%), they represent a fairly large portion of the over-standard civil terminations (36%). Table A.4 also shows that over two-thirds (70%) of cases assigned to Track 3 or Track 4 closed over-standard, which is larger than what is experienced by cases assigned to other civil tracks.

**Table A.4 FY11 Civil Case Terminations by Termination Status (Within or Over the 18-month Standard) and Track (Excluding Foreclosures)**

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
Track 0	1,348	27%	89	1,341	99%	27%	86	7	1%	8%	670
Track 2	1,621	32%	181	1,609	99%	32%	175	12	1%	13%	976
Track 3	1,125	22%	285	1,094	97%	22%	273	31	3%	34%	688
Track 4	150	3%	393	117	78%	2%	292	33	22%	36%	750
Track 5	4	<1%	666	2	50%	<1%	85	2	50%	2%	1,247
Track 6	23	<1%	394	18	78%	<1%	206	5	22%	5%	1,071
Track 8	1	<1%	600	0	0%	0%	---	1	100%	1%	600
Track N	782	15%	14	782	100%	16%	14	0	0%	0%	---
Total (Excluding Foreclosures)	5,054	100%	162	4,963	98%	100%	150	91	2%	100%	780
Track N Foreclosures	5,480	100%	351	4,962	91%	100%	318	518	9%	100%	667
Total (Including Foreclosures)	10,534	100%	260	9,925	94%	100%	234	609	6%	100%	684

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

**Table A.4a Track 3 Civil Case Terminations, FY08 – FY11**

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total†	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
FY08	1,190	27%	420	1,002	84%	25%	305	188	16%	53%	1,036
FY09	1,155	29%	333	1,033	89%	28%	289	122	11%	55%	706
FY10	1,189	23%	327	1,100	93%	22%	295	89	7%	50%	722
FY11	1,125	22%	285	1,094	97%	22%	273	31	3%	34%	688

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

† Total terminations for the identified fiscal year excluding foreclosures.

As noted previously, revisions made to the Court's Civil DCM Plan implemented at the beginning of FY11 are anticipated to improve the processing of civil cases assigned to Tracks 2, 3, and 4. Not all civil cases terminated in FY11 fell under the guidelines of the new DCM Plan because they were filed prior to July 2010. However, it is possible that some civil cases have been impacted by the revised DCM Plan. With regard to cases assigned to Track 3, one notable change outlined in the revised DCM Plan is that parties whose cases are still pending at the time of the Settlement Conference/Pretrial Hearing date will participate in a no cost (see Maryland Rule 17-103(c)). The goal of this mandatory Settlement Conference is to reach a settlement of the claim thereby reducing the need to schedule a trial date, to pay the cost of expert witnesses, and to settle on a trial date after the courtroom has been reserved and jurors brought in for trial. Looking very broadly at Track 3 performance (see Table A.4a), the percentage of these cases closing within-standard increased from 84% in FY08<sup>8</sup> to 97% in FY11. Between FY08 and FY11, the average case time for Track 3 cases has improved from 420 days to 285 days (32% improvement). More recently, the overall Track 3 ACT reduced by 42 days between FY10 and FY11 (13% improvement). These improvements in Track 3 performance were achieved without a marked reduction in the number of cases assigned to Track 3. In fact, between FY09 and FY11, the number of cases assigned to Track 3 decreased by 3% (from 1,155 to 1,125).

Analyzing Track 3 performance in an effort to draw conclusions about the impact of settlement conferences on performance is limited because not all Track 3 cases terminated in FY11 were filed under the revised DCM Plan and some Track 3 civil cases (filed in FY11) were resolved prior to the date of the mandatory settlement conference. Therefore, a more appropriate analysis would be to compare the outcomes of cases assigned to Track 3 under the new DCM Plan with those Track 3 cases filed under the previous DCM Plan, which did not require a mandatory settlement conference. In August 2011, a *preliminary* analysis was performed comparing 60 Track 3 civil cases that were filed in July 2009 and closed by August 19, 2010 with 58 Track 3 civil cases that were filed July 2010 and closed August 19, 2011. The following *preliminary* results were obtained:

- Overall, a higher percentage of settlements occurred among Track 3 cases closed within the 426-day period (from July 1<sup>st</sup> of the previous year to August 18<sup>th</sup> of the next year) of being filed in July 2010 compared to cases closed within 426 days of being filed in July 2009 (65.5% versus 48.3%, respectively).
- Among Track 3 civil cases that had a Settlement Conference/Pretrial Hearing or Settlement Conference scheduled but not held (N = 47 among FY10 filings, and N= 46 among FY11 filings), a higher percentage of cases filed in July 2010 compared to July 2009 settled (60.9% and 46.8%, respectively).
- Among Track 3 civil cases that had a Settlement Conference/Pretrial Hearing or Settlement Conference scheduled and held (N = 13 among FY10 filings, and N = 12 among FY11 filings), a higher percentage of cases filed in July 2010 compared to July 2009 settled (83.3% and 53.8%, respectively).

<sup>8</sup> The FY08 performance measures referenced were based on the entire population of cases assigned to Track 3 in FY08 – not the random sample of Track 3 cases discussed in the Court's FY08 case assessment report.

It is important to note that “settled” in the above analyses includes scenarios where a settlement was placed on the record, a joint dismissal was filed (regardless of whether there was any indication in the dockets that the case settled), a consent judgment was entered, or binding arbitration docketed. Also, the average length of time to settle was slightly longer among Track 3 cases filed in July 2010 compared to July 2009 (266 days versus 255 days) and when Track 3 cases had a Settlement Conference/Pretrial Hearing or Settlement Conference scheduled but not held (245 days versus 224 days). However, among Track 3 civil cases that had a Settlement Conference/Pretrial Hearing or Settlement Conference scheduled and held, the average days to settle is shorter among cases filed in July 2010 compared to July 2009 (325 days versus 354 days). This *preliminary* snapshot of the impact of mandatory Settlement Conferences on Track 3 case outcomes will be analyzed further in FY12 as more data is available. However, this analysis suggests that the performance of select Track 3 civil cases may be improving due, in part, to the implementation of a revised Civil DCM Plan that emphasizes early resolution through early ADR, adherence to schedules and mandatory Settlement Conferences for parties that have not resolved their cases.

The performance of cases assigned to Track 4 has also improved in FY11. In particular, between FY08<sup>9</sup> and FY11, the percentage of cases assigned to Track 4 that closed within the 548-day time standard increased from 69% to 78%. More recently, the performance of cases assigned to Track 4 improved by 11 percentage points between FY10 and FY11 (67% and 78%, respectively). The overall ACT for cases assigned to Track 4 also improved by decreasing from 516 days in FY08 to 393 days in FY11 (24% improvement in average days to close). Also, worthy of note is that the total number of Track 4 civil cases declined between FY08 and FY11 by 33% from 225 in FY08 to 150 in FY11. The improvements in Track 4 performance may be attributed to the scheduling of a trial date at the Scheduling Hearing instead of waiting until a later Pretrial Hearing, a change requested by members of the bar. Another change is that Track 4 cases must be approved for that assignment. The previous practice of requesting Track 4 assignment at the settlement/pretrial and having a new scheduling order issued has been stopped.

The revision of the Civil DCM Plan in FY10, the implementation of the Plan in FY11, and policy changes that began in advance of the implementation include setting the trial date at the Scheduling Hearing in all Track 4 cases, scheduling trials within DCM guidelines rather than just short of the 548-day standard, not restarting the clock when the track of a case is changed or a new scheduling order is requested, and adhering to the 2-507 rule regarding the original issuance of process, which includes not generating new scheduling orders when summonses are re-issued. Those measures possibly contributed to some of the improvements in the Court’s case processing performance. Additional analysis is required to understand the full impact of the revised DCM plan and related policies and procedures on case processing performance.

#### *Case Terminations by Trial Postponements*

As shown in Table A.5, 177 cases had trial postponements constituting 4% of all the FY11 civil terminations (excluding foreclosures), which is two percentage points above that achieved for FY10. Of the cases with trial postponements, 88% closed within-standard (compared to 77% in FY10), which is likely due in part to the setting of trial dates well within the DCM guidelines instead of just short of the 548-day standard. Despite being postponed, civil cases assigned to Track 0 or Track 2 continued to meet the performance goal of 98%. Unlike the past several fiscal years where slightly over half of the postponed Track 3 cases closed within-standard, in FY11, 77% of postponed Track 3 cases closed within-standard, which is a noticeable improvement.

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<sup>9</sup> The FY08 performance measures referenced were based on the entire population of cases assigned to Track 4 in FY08 – not the random sample of Track 4 cases discussed in the Court’s FY08 case assessment report.

**Table A.5 FY11 Civil Case Terminations by Trial Postponements, Termination Status (Within or Over the 18-month Standard), and Track (Excluding Foreclosures)**

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 0	1,348	54	4%	141	54	100%	141	0	0%	---
Track 2	1,621	56	3%	332	55	98%	323	1	2%	855
Track 3	1,125	47	4%	526	36	77%	483	11	23%	666
Track 4	150	19	13%	636	10	53%	452	9	47%	840
Track 5	4	---	---	---	---	---	---	---	---	---
Track 6	23	---	---	---	---	---	---	---	---	---
Track 8	1	---	---	---	---	---	---	---	---	---
Track N	782	1	<1%	409	1	100%	409	0	0%	---
Total	5,054	177	4%	358	156	88%	306	21	12%	750

**Table A.5 FY11 Civil Case Terminations by Trial Postponements, Termination Status (Within or Over the 18-month Standard), and Track (Excluding Foreclosures)**

<u>Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 0	1,348	1,294	96%	87	1,287	99%	84	7	1%	670
Track 2	1,621	1,565	97%	176	1,554	99%	170	11	1%	987
Track 3	1,125	1,078	96%	274	1,058	98%	266	20	2%	700
Track 4	150	131	87%	358	107	82%	277	24	18%	717
Track 5	4	4	100%	666	2	50%	85	2	50%	1,247
Track 6	23	23	100%	394	18	78%	206	5	22%	1,071
Track 8	1	1	100%	600	0	0%	---	1	100%	600
Track N	782	781	>99%	14	781	100%	14	0	0%	---
Total	5,054	4,877	96%	154	4,807	99%	145	70	1%	789

\* ACT = Average case time, in days.

The average case time among over-standard civil cases without trial postponements in FY11 is slightly higher than for civil cases with trial postponements (789 days and 750 days, respectively). The over-standard ACT among civil cases without postponements is being driven higher by the B&T and ASTAR cases that generally have longer processing times given the nature of their content. The data reveals that all over-standard Track 0 cases closed without trial postponements, and the majority of over-standard Track 2 cases closed without trial postponements. Some of the reasons for the long case times among cases without trial postponements include stays resulting from a defendant filing bankruptcy (yet the case continues to move forward as to the other defendants in the case) or a stay pending the resolution of a petition for declaratory relief. As noted in previous years' case assessment reports, the relationship between trial postponements and termination status is complex. Additional analysis is required to more fully understand not only the impact of trial postponements on case processing performance but also the reasons why cases assigned to certain tracks are closing over-standard in the content of the time standards and in the absence of trial postponements.

#### *Case Terminations by the Number of and Reasons for Trial Postponements*

Among FY11 civil cases with trial postponements, 91% (FY10: 86%; FY09: 87%) have only one, 8% (FY10: 11%; FY09: 11%) have two, and only 1% (FY10: 3%; FY09: 3%) have four postponements (see Table A.6). Seventy-one percent of over-standard civil case terminations that have trial postponements are postponed only once. Similar to



previous fiscal years, as the number of trial postponements increases from 1 to 2 in FY11 so too does the percentage of cases closing over-standard from 9% to 33% (results not displayed in Table A.6).

**Table A.6 Postponed Civil Cases by the Number of Trial Postponements and Termination Status, FY08-11 (Excluding Foreclosures)**

Number of Postponements	All Cases					Within-Standard Cases					Over-Standard Cases				
	FY11*		FY10	FY09	FY08*	FY11		FY10	FY09	FY08*	FY11		FY10	FY09	FY08*
	N	%	%	%	%	N	%	%	%	%	N	%	%	%	%
1	161	91%	86%	87%	71%	146	94%	91%	91%	77%	15	71%	69%	77%	50%
2	15	8%	11%	11%	24%	10	6%	8%	8%	15%	5	24%	21%	20%	50%
3	0	---	1%	1%	6%	---	---	---	1%	8%	---	---	6%	2%	0%
4+	1	1%	2%	<1%	0%	---	---	1%	---	0%	1	5%	4%	2%	0%
Total	177	100%	100%	100%	100%	156	100%	100%	100%	100%	21	100%	100%	100%	100%
% Postponed		4%	2%	3%	3%		3%	2%	2%	3%		23%	13%	17%	17%

Note: Percentages do not always add to 100% due to rounding; \* FY08 figures are based on a sample of 509 civil cases.

\* In FY11, foreclosures are excluded from the analysis.

**Table A.7 Reasons for Trial Postponements by Termination Status for Civil Cases (Excluding Foreclosures), FY11**

Reason for Trial Postponement		All Cases		Over-Standard Cases		% Over-Standard/All Cases
		N	(%)	N	(%)	
1	Calendar Conflict – Party Needs to Get Affairs in Order	42	22%	7	24%	17%
2	Illness/Medical Emergency or Death	25	13%	3	10%	12%
3	Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare	34	17%	8	28%	24%
4	Vacation Plans/Religious Reasons	13	7%	1	3%	8%
5	Witness Unavailable – New Witness Identified	22	11%	1	3%	55
6	New Complaint, Petition, 3rd Party Complaint, or Consolidation					
7	Pending/Complaint Not at Issue or Ripe	8	4%	--	--	--
8	Postponed (Trailed), or Jurors Unavailable	2	1%	--	--	--
9	New Counsel Sought or Has Entered their Appearance or Not Appointed	13	7%	2	7%	15%
10	Defendant/Respondent/Plaintiff Not Transported/Write Never Requested	1	1%	--	--	--
11	Judge Unable to Reach Court Event (e.g., Illness, Scheduling Conflict)	2	1%	1	3%	505
12	Increase/Decrease Court Time/Track Change/to Trail Behind Another Case	3	2%	1	3%	33%
13	Party(s) Did Not Receive Notice Of Court Date	8	4%	1	3%	13%
14	Pending Motions to Be Heard or Ruled on	2	1%	1	3%	50%
15	Mental Evaluation Incomplete	1	1%	1	3%	100%
16	Settlement, Plea, or Reconciliation in Progress	16	8%	2	7%	13%
17	Weather/Court Emergencies/Administrative Court Closure	2	1%	--	--	--
18	On TBA Docket and Not Reached by Court	1	1%	--	--	--
Total		195	100%	29	100%	15%

Note: Percentages do not always add to 100% due to rounding.

Table A.7 provides the distribution of 195 trial postponement reasons for the 177 civil cases that were postponed at least once and the 29 reasons for the subset of 21 postponed civil cases that closed over-standard. The most frequently cited trial postponement reasons among civil terminations as well as for over-standard civil terminations include: “Calendar Conflicts – Party Needs To Get Affairs in Order” (22% all cases; 24% over-standard cases); “Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare” (17% all cases, 28% over-standard cases); and “Illness, Medical Emergency Or Death” (13% all cases; 10% over-standard cases). Among FY11 civil terminations, even though the percentage of civil cases with trial postponements increased (compared to FY10), the percentage of postponed cases closing within-standard has increased (from 77% in FY10 to 88% in FY11) and the percentage of cases with only a single postponement has decreased (from 11% in FY10 to 8% in FY11). As a good practice it appears that the Court should continue to assess whether MD Rule 2-508 related to “continuance” is being rigorously applied.

### *Summary of Civil Findings*

- In FY11, the Maryland Judiciary excluded foreclosures from its analysis of civil case processing performance. Montgomery County Circuit Court performed several different analysis of civil case processing performance and, at points, included foreclosures for (primarily) comparison purposes with previous years’ results.
- A total of 10,534 civil cases had original terminations in FY11; however, when excluding foreclosures, the number of original terminations decreases to 5,054. Over 50% of Montgomery County Circuit Court’s original, civil terminations in FY11 are comprised of foreclosures.
- When excluding foreclosures, the overall average case time (ACT) equals 162 days compared to 260 days when foreclosures are included. Ninety-eight percent of non-foreclosure, civil terminations closed within the 548-day time standard compared to 94% of all civil terminations (including foreclosures. FY11 is the first year since measuring civil case processing performance that Montgomery County Circuit Court met the performance goal of closing 98% of civil cases within 548-days.
- Civil cases assigned to Tracks 0, 2, and 3 represent over 80% of the FY11 civil case terminations. With the exclusion of foreclosures, Track N cases represent only 15% of the FY11 civil terminations.
- Non-foreclosure, civil cases assigned to Tracks N, 0, and 2 exceeded the statewide performance goal of closing 98% of cases within 548 days.
- Track 4 cases in FY11 represent a large percentage of over-standard cases (i.e., 36%) given that they constitute only 3% of the civil terminations. Approximately 70% of the over-standard terminations are among civil cases assigned to Tracks 3 or 4.
- The most common sub-types for FY11 (similar to FY10) are: foreclosure (52%, FY10: 49%, FY09: 37%), other law (15%, FY10: 14%, FY09: 18%), and contract (13%, FY10: 17%, FY09: 18%). Seventy-three percent of the civil sub-types met or exceeded the state goal of closing 98% of cases within the 548-day time standard in FY11 (compared to 44% in FY10 and 55% in FY09), which is a noticeable improvement.
- Of the 5,054 non-foreclosure, civil cases with original terminations in FY11, 177 (4%) had trial postponements, which is two percentage points higher than the 2% achieved for FY10. Of the cases with trial postponements, 88% closed within-standard. In FY11, 35% of postponed civil cases assigned to Track 3 closed over the 548-day time standard compared to almost half of similarly assigned cases in FY10, which highlights another improvement in performance.
- Among FY11 non-foreclosure, civil cases with trial postponements, 91% (FY10: 86%; FY09: 87%) have only one, 8% (FY10 and FY09: 11%) have two, and 1% (FY10: 3%; FY09: 2%) have three or more postponements. More cases with only a single may have contributed to the 15% reduction in the overall ACT between FY10 and FY11.

### *Recommendations for Montgomery County Circuit Court*

- Review the data fields printed on the civil audit form to ensure that the programming logic and specifications used to extract data for those forms align with those used to extract data for case assessment data (where appropriate). There are instances where the suspension end dates contained on the audit form are being

populated with the case stop date when this is only appropriate in instances whether the case closed via dismissal or Nol Pros, and this may not be appropriate (at all) for the audit form.

- Convene a meeting with Data Programming staff and other court personnel to review the Montgomery County Circuit Court docket codes that align with the required data elements associated with the time standards including case start, case stop, and approved suspension events. It is important to review all of the data fields prior to each assessment year to ensure that the data being captured aligns with the statewide assessment requirements.
- Work with the Court's DCM Coordinator and other court personnel to develop analyses that will provide insight on the impact of several procedural changes implemented in July 2010 as part of the revised Civil DCM Plan. One analysis currently underway is an analysis of the impact of mandatory settlement conferences on case disposition among Track 3 civil cases filed in FY11 compared to the case dispositions of Track 3 civil cases filed in FY10. Through continued (and possibly historical) analysis of civil performance against the Court's DCM guidelines, the Court may be able to develop resolution benchmarks – that is, realistic goals by which cases should reach resolution.
  - Conduct several additional analyses that examine case processing against the Court's DCM guidelines. As a baseline, an analysis will be performed that assesses the extent to which cases reach trial by the defined DCM guidelines. Future analyses will be performed by examining the extent to which case resolve at scheduling, pre-trial, and other key events occurring prior to trial. Through these analyses, the Court can identify the stage of case where timely resolution may be at risk. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to reverse a declining trend.
- Continue to track the trend of civil foreclosure filings as the impact of such filings may have an impact on the overall civil workload as well as the Court's ability to efficiently manage civil cases in FY12.

#### *Recommendations for the Circuit Court Time Standards Sub-Committee*

- Discuss the possibility of including foreclosures in the FY2012 case assessment and incorporate a suspension event for foreclosure mediation.
- Questions have been raised about whether other suspension events, which render a case inactive, should be included in the civil case time standards. Recently the stay for receivership has been acknowledged as a suspension event; however, other similar events include waiting for a decision from the: Federal Court, Attorney General's Office, another jurisdiction, or the Court of Special Appeals (in another case). It is recommended that a statewide analysis be performed examining: 1) the frequency/type of select "stay events" statewide, 2) the amount of time associated with these select stay events, and 3) the impact that the time associated with these stay events has on case terminations status.
- Create a flag/variable measuring the number of bankruptcy suspension events in civil cases. Fairly frequently, Montgomery County Circuit Court has to manually modify the time associated with a civil case because there are multiple bankruptcy suspension events and the assessment application only allows for one bankruptcy suspension. This manual modification is primarily done for over-standard cases because there is not an easy way to identify cases with multiple bankruptcy suspension events. Prior to creating a new variable in the assessment application, the time standards sub-committee may want to have JIS perform an analysis of the number of civil cases that have multiple bankruptcy suspension events (among UCS courts as well as Montgomery County Circuit Court).

# Criminal Case Terminations

## Fiscal Year 2011 Case Terminations

### B. Criminal Case Processing Definitions and Summary

	Criminal Case Time Definitions	Statewide Measurements	Additional Montgomery County Measurements
Criminal Case Flow Assessment Standard and Montgomery County Measures			<u>Arrest/Service to Filing:</u> CY 2001: 121 days CY 2002: 138 days CY 2003: 124 days FY 2005: 125 days FY 2006: 121 days FY 2007: 112 days FY 2008*: 116 days FY 2009†: 104 days FY 2010†: 117 days‡ FY 2011†: 117 days‡
	<u>Case Time Start:</u> First appearance of defendant or entry of appearance by counsel	Percent Within 6-month (180 days) Standard <u>State-Set Goal: 98%</u> CY 2001: 96% CY 2002: 91% CY 2003: 90% FY 2005: 90% FY 2006: 90% FY 2007: 89% FY 2008*: 86% FY 2009†: 96% FY 2010†: 95% FY 2011†: 96%	<u>Filing to First Appearance:</u> CY 2001: 12 days CY 2002: 18 days CY 2003: 15 days FY 2005: 19 days FY 2006: 18 days FY 2007: 15 days FY 2008*: 17 days FY 2009†: 13 days FY 2010†: 12 days FY 2010†: 18 days FY 2011†: 18 days
	<u>Case Time Stop†:</u> CY2001 – FY2008: Disposition (PBJ, Stet, NP, NG, Sentencing, NCR finding) FY2009 – FY2010: Verdict (Plea/Verdict, Stet, NP, Reverse Waiver Granted, NCR finding)	<u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: 89 days CY 2003: 89 days FY 2005: 86 days FY 2006: 84 days FY 2007: 92 days FY 2008*: 94 days FY 2009†: 77 days FY 2010†: 80 days FY 2011†: 62 days	<u>Verdict to Sentence:</u> CY 2001: 24 days CY 2002: 46 days CY 2003: 51 days FY 2005: 108 days FY 2006: 88 days FY 2007: 97 days FY 2008*: 75 days FY 2009†: 99 days FY 2010†: 18 days§ FY 2011†: 18 days§

Note: Criminal case time is suspended for failure to appear/bench warrant, mistrial, NCR evaluation, competency evaluation, petition for reverse waiver, interlocutory appeal, military leave, pre-trial sentencing treatment, psychological evaluation, and DNA/Forensic testing.

\* FY08 results are based on a sample of 505 criminal cases.

† Because of the change in the Criminal Time Standard in 2009, the case time was measured from the first appearance to verdict rather than disposition for the FY09 and FY10 Assessments. Additional Montgomery County measures for CY2001-FY2009 are calculated by Data Processing based on a sample.

‡ Arrest/Service to Filing: FY10 number is based on data of 2,430 terminations, excluding 179 terminations (6 with a missing arrest date and 173 with an arrest date later than the filing date); FY11 number is based on 2,583 terminations, excluding 119 terminations (4 cases with a missing or invalid arrest date and 115 cases with an arrest date later than the filing date)

§ Verdict to Sentence: FY10 figure is based on 1,942 terminations with a valid sentencing date; FY11 figure is based on 2,135 terminations with a valid sentencing date.

## Overall Criminal Case Terminations

A total of 2,701 original criminal cases were terminated during Fiscal Year 2011 (FY11). The FY11 figure is 94 cases more (3%) than the FY10 level. Table B.1 summarizes the Court's criminal case processing performance for FY04 through FY11. For FY09, the Criminal Time Standard was modified to measure the case time from the first appearance to verdict instead of sentencing. As a result, between FY08 and FY09, the percent of cases closed within the 180-day standard increased from 86% to 96%. For the past two fiscal years, we measured the Court's criminal case processing performance based on the old standard, as well as the revised one, to continue tracking its performance trend, which appeared to have been in slight decline in recent years. Between FY04 and FY06, the percent of cases closed within standard was 90%. However, between FY07 and FY10, performance ranged between 86% and 89%.<sup>10</sup>

Recognizing the diminishing effectiveness of its DCM Plans in achieving the timely resolution of cases, the Court initiated a systematic review of the plans in November 2009. The revised criminal DCM plan was introduced in July 2010. Seventy-seven percent of the criminal cases terminated during FY11 were filed and processed pursuant to the revised DCM Plan, with the remaining 23 % of cases filed prior to the implementation of the revised plan and processed pursuant to schedules and policies in effect at the time of filing. The revised Plan's impact on the case processing performance using the old time standard is evident. The FY11 performance based on the standard is as good as that of FY04, the best performance since the assessment was implemented; 91% of the originally terminated cases were closed within 180 days. Further, under the old time standard, the average case time for all cases and within-standard cases for FY11 are 77 days and 58 days, respectively, much shorter than those of any other years.

**Table B.1 Number of Criminal Case Terminations, FY04-FY11**

Fiscal Year	Terminations		Within-Standard Terminations			Over-Standard Terminations		
	N	ACT*	N	%	ACT*	N	%	ACT*
<b>Measured based on the old time standard with the case stop date on sentencing (or case status = closed)</b>								
FY04	2,035	94	1,852	91%	63	183	9%	402
FY05	2,383	86	2,155	90%	65	228	10%	286
FY06	2,481	84	2,239	90%	65	242	10%	260
FY07	2,485	92	2,205	89%	66	280	11%	295
FY08**	(505)	95	(435)	86%	69	(70)	14%	254
FY09†	2,487	93	2,191	88%	69	286	12%	279
FY10‡	2,570	93	2,213	86%	69	357	14%	245
<b>FY11‡</b>	<b>2,608</b>	<b>77</b>	<b>2,362</b>	<b>91%</b>	<b>58</b>	<b>246</b>	<b>9%</b>	<b>262</b>
<b>Measured based on the revised time standard with a revised case stop date on verdict</b>								
FY09†	2,487	77	2,372	96%	68	106	4%	270
FY10†	2,607	80	2,486	95%	71	121	5%	263
<b>FY11†</b>	<b>2,701</b>	<b>62</b>	<b>2,603</b>	<b>96%</b>	<b>53</b>	<b>98</b>	<b>4%</b>	<b>284</b>

Maryland criminal case time standard and goal: 6 months (180 days) and 98% within-standard terminations

\* ACT = average case time, in days.

\*\* The full criminal caseload for FY08 was 2,613. The 505 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

† The FY09 and FY10 case processing performance was measured based on the revised time standard with a revised case stop date on verdict.

‡ The FY09 and FY10 results based on the old case time standard (preliminary).

Examined under the revised time standard, the Court's FY11 performance, a 96% within-standard termination, is comparable to that of the two previous fiscal years. However, the ACT for all cases and among those closed within the standard for FY11, 62 days and 52 days, respectively, are much shorter than those in FY09 and FY10. If the

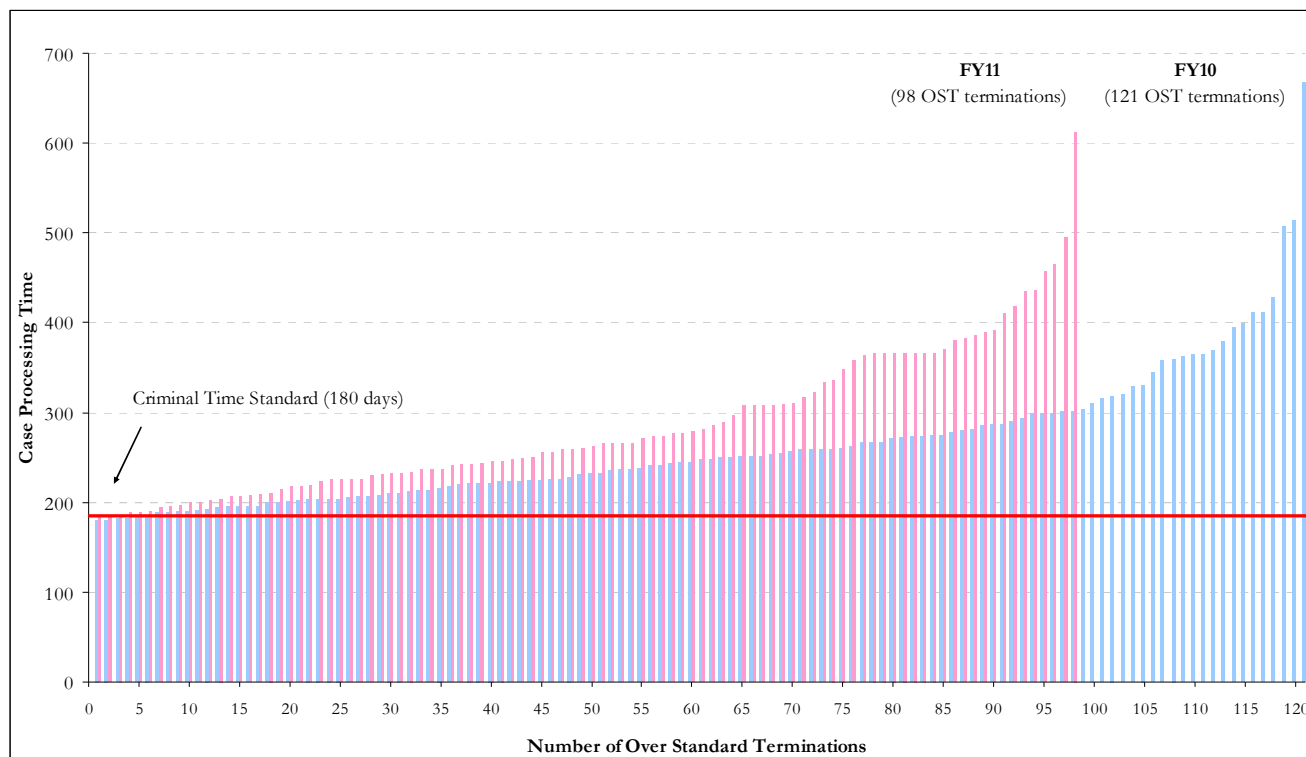
<sup>10</sup> We note that the number of criminal cases used to calculate the average case time and the within-standard percentage under the old time standard is substantially smaller than original data because the cases that had a verdict in a given fiscal year but a sentencing in the following year were discarded from the data. In addition, the cases with a verdict in a prior fiscal year and sentencing in the current year were not included in the original data and therefore are not in the data used for the analysis, either.

observed improvement in FY11 is largely due to the revised DCM plan, we expect the next year’s case processing performance based on the cases that were fully under the revised DCM plan to improve further.

**Table B.2 Distribution of Over-Standard Criminal Cases by Clock Time and Track, FY07-FY11**

Fiscal Year	N	Mean	Median	Percentile						
				5	10	25	75	90	95	Max
FY07	280	295	227	183	187	197	291	362	473	6,728
FY08*	70	254	224	182	187	200	265	390	448	514
FY09	106	270	238	184	187	203	295	376	526	656
FY10	121	263	247	186	193	211	287	362	399	667
<b>FY11</b>	<b>98</b>	<b>284</b>	<b>262</b>	<b>188</b>	<b>199</b>	<b>225</b>	<b>339</b>	<b>390</b>	<b>437</b>	<b>612</b>

\*FY08 figures are based on a sample of 505 criminal cases.



**Figure B.1 Criminal Case Terminations that are over the 6-month standard, FY10 and FY11**

Table B.2 presents the distribution of over-standard (OST) cases for FY07 through FY11, and Figure B.1. compares the FY10 and FY11 over-standard distributions. While the figure gives an impression that the FY11 distribution represents a compressed FY10 distribution, the FY11 distribution is more like a truncated FY10 distribution without the first 20 or so cases from the left hand side. The FY11’s middle percentiles (25<sup>th</sup>, 50<sup>th</sup> (median) and 75<sup>th</sup> percentiles) that are much greater than those of any previous fiscal years also underscore this observation.<sup>11</sup> It appears that under the revised criminal DCM plan, the Court was able to more efficiently process the ‘borderline’ cases that would have had otherwise resulted in over-standard terminations. This also indicates that the impact of the revised policies has been somewhat attenuated in its first year of implementation in the sense that it did not shift the distribution vertically downward but rather horizontally due to the presence of cases filed and processed under the old DCM plan. The composition of over-standard cases by filing date indicates that cases filed prior to the implementation of the revised DCM Plan accounted for 78 (80%) of the 98 over-standard cases in FY11 and were 13% of the 624 cases that were filed in FY10 and closed in FY11. The remaining 20 cases filed after the implementation of the revised DCM plan that exceeded the time standard accounted for less than 1% (0.96 %) of the cases filed in FY11 and closed in FY11. These over-standard cases should be investigated to identify the

<sup>11</sup> If the FY11 distribution is a compressed version of the FY10 distribution, both years should have more or less similar values for each corresponding percentile.

characteristics of those cases to determine whether further strategies can be implemented to reduce the likelihood that future cases will exceed the time standard.

### *Case Terminations by Track*

Montgomery County Circuit Court's Criminal Differentiated Case Management (DCM) Plan has included five tracks for criminal cases<sup>12</sup>:

Track 0: Information little or no discovery (13 terminations in FY11 of case filed prior to July 1, 2010) (this track was abolished under the revised plan and is no longer in use; cases formerly filed in this track are now filed as Track 2 or 3 cases)

Track 1: District Court jury demands and appeals (1,208 terminations)

Track 2: Indictments and Informations, defendant locally incarcerated (432 terminations)

Track 3: Indictments and Informations, defendant on bond/writ status (774 terminations)

Track 4: Complex Indictments and Informations (N=274 terminations)

Table B.3 presents the breakdown of the FY11 criminal case terminations by the criminal DCM track and track-specific case-processing performance measures (ACT for within- and over-standard terminations and the percent of cases closed within-standard). As the first section of the table shows, 45% of the terminated cases for FY11 were from Track 1 (44% in FY10), 29% from Track 3 (26% in FY10), 16% from Track 2 (14% in FY10), and 10% from Track 4 (14% in FY10). While the percentage distribution by Track for FY11 is fairly comparable to that of previous fiscal years, the percent of Track 4 cases (complex criminal cases) declined to 10% in FY11 from 14% in FY10. This was an intended outcome under the revised DCM plan, which now requires judicial approval of complex track assignment after a review of the caseload; in recent fiscal years the Court witnessed an increasing overuse of the complex track for routine cases, diluting the judicial resources needed for truly complex cases and risking neglect of those routine cases that languished on the complex track. Appropriate assignment of cases to routine and complex tracks may be one of the factors in the Court's increased case processing performance in FY11. Below is a brief summary of the changes in the distribution of over-standard cases by DCM-track:

- In FY08, 73% of the over-standard cases were cases in Track 3 (37%) or Track 4 (36%), and another 19% were in Track 2.
- In FY09, 90% of over-standard cases were from Track 3 (33%) and Track 4 (57%), and only 7% of the over-standard cases were found in Track 2.
- In FY10, less than 80% of over-standard cases were found in Track 3 (23%) and Track 4 (55%) combined; instead 17% of over-standard cases were Track 2 cases in FY10.
- As in FY10, 80% of over-standard cases were found in Track 3 (29%) and Track 4 (51%) in FY11 and the remaining 18% of the over-standard cases were evenly divided between cases in Track 1 (9%) and 2 (10%).
- As indicated above, the majority of those over-standard cases are found in those filed under the old DCM plan. Specifically, 100% of over-standard cases in Track 2, 93% in Track 3 and 66% in Track 4 were filed before July 1<sup>st</sup>, 2010. The Court's processing performance of Track 4 cases – 82% within-standard termination (71% among those under the old DCM plan and 89% under the revised plan) has significant impact on the overall criminal case processing performance.

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<sup>12</sup> The track descriptions are based on the Criminal DCM Plan (July 2003, 2<sup>nd</sup> edition); however, it is important to note that the Criminal DCM Plan was revised in July 2010. There are minimal differences in the track descriptions between the July 2003 and July 2010 versions of the Criminal DCM Plan.

**Table B.3 FY11 Criminal Case Terminations by Termination Status (Within or Over the 6-month Standard) and Track**

	Total Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of WST*	% of Track	ACT	N	% of OST*	% of Track	ACT
Track 0	13	0%	82	12	0%	92%	72	1	1%	8%	204
Track 1	1,208	45%	31	1,199	46%	99%	29	9	9%	1%	339
Track 2	432	16%	69	422	16%	98%	63	10	10%	2%	336
Track 3	774	29%	77	746	29%	96%	70	28	29%	4%	264
Track 4	274	10%	140	224	9%	82%	110	50	51%	18%	277
Total	2,701	100%	62	2,603	100%	96%	53	98	100%	4%	284

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding

As indicated above, the impact of the revised criminal DCM plan during FY11 appears to have been attenuated by the caseload resolving under the original DCM Plan. The analysis of the Court's criminal case processing performance by the DCM Track also appears to support the observations. In terms of the within-standard percent, while Track 2 is the only track that exhibited improvement from 94% in FY10 to 98% in FY11, the before and after comparison of the case processing performance by Track clearly indicates that most, if not all, of over-standard terminations are found in cases filed before July 1<sup>st</sup>, 2010. While this observation gives an impression that the case processing performance under the revised DCM plan was processed much efficiently than that under the original plan, it is important to note that those case processed under the revised plan were also filed later. Without controlling for the time when cases are filed, it is difficult to conclude whether the observed improved performance was due to the revised DCM plan, due to the difference in when cases were filed, or the combination of the two. We will address this issue later in this report.

In terms of the average case time (ACT), Tracks 2 and 3 experienced a substantial reduction in the overall and within-standard ACT. Thus, Track 2 overall and within-standard ACTs were reduced by more than 40 days to 69 days and 63 days, respectively. Equally, Track 3 overall and within-standard ACTs were reduced by about 30 days to 77 days and 70 days, respectively. In contrast, the ACT of over-standard cases for FY11 in general remained unchanged or slightly deteriorated between FY10 and FY11. Thus, in FY11 where the majority of the cases terminated were processed under the revised DCM plan, its initial impact appears to be increased case-processing efficiency of less complex cases, mainly cases in Tracks 2 and 3. However, as discussed above, the somewhat limited improvement in the case processing performance is likely due to the fact that the FY11 data is a combination of case terminations under two different DCM plans. To more accurately assess the impact of its revised DCM plan, the Court plans to conduct a more detailed, Track-specific analysis of its case processing by comparing the cases filed and processed under the original plan and those under the revised one. Furthermore, the next year's caseload assessment using the data that would include all most all cases terminated under the revised DCM plan will provide the Court an opportunity to evaluate the impact of the revised DCM plan on its criminal case processing performance.



### *Case Sub-type Terminations by the Number of and Reasons for Trial Postponements*

Table B.3b presents the breakdown of criminal cases by case sub-type and termination status for FY11. Two major sub-types are Circuit Court indictments (1,058 cases, 39%) and District Court appeals (1,048 cases, 39%). The breakdown of within-standard cases by sub-type indicates the processing of indictments determines the Court's criminal case processing performance; whereas at least 98% of informations and the District Court Jury Demands and Appeals were closed within-standard, only 93% of indictments were closed within the 180-day standard. In FY11, 81% of the over-standard cases were indictments though the percentage was even higher in previous years (85% in FY10 and 90% in FY09). The cross-tabulation of criminal case terminations by case sub-type and DCM Track indicated that the Court should focus its attention on the efficient processing of Track 4 cases, in particular Track 4 indictments (with 80% within-standard terminations, cf. Track 4 informations had a 93% within-standard terminations). Again, comparing the case processing performance by case sub-type under the old and revised plans would yield additional insights in identifying and characterizing over-standard cases under the two different plans and developing additional plans and programs to reduce the number of over-standard case terminations under the revised plan.

**Table B.3b Criminal Cases by Case Sub-Type and Termination Status, FY11**

Case Sub-type	Total Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	%	ACT*	N	%	% WST*	ACT	N	%	% OST*	ACT
Indictment	1,058	39%	99	979	38%	93%	84	79	81%	7%	279
Information	435	16%	57	425	16%	98%	52	10	10%	2%	274
Bindover-Jury	160	6%	18	159	6%	99%	17	1	1%	1%	250
Bindover-Appeal	1,048	39%	33	1,040	40%	99%	31	8	8%	1%	350
Total	2,701	100%	62	2,603	100%	96%	53	98	100%	4%	284

\* WST: within-standard; OST: over-standard

Note: Percentages do not always add to 100% due to rounding

### *Case Terminations by Trial Postponements*

Table B.4 compares cases that had trial postponements to those that did not by termination status for FY11. For comparison, the FY10 summary figures are also provided at the bottom of each subsection of the table. The overall patterns remain the same as before; without trial postponements, virtually all cases close within the time standard. With trial postponements, cases, in particular complex cases, are more likely to close over-standard. What is notable in FY11 is that the number of cases with trial postponement was reduced by half from 1,340 in FY10 to 614 in FY11 thanks to the revised criminal DCM plan that streamlined the trial scheduling process for Track 2, 3 and 4 cases. The percent of case terminations with postponements also declined from 51% to 23% (it was 48% in FY09, 49% in FY08 and 51% in FY07). Specifically, in FY10 and FY11, the number and percent of cases with postponement in Tracks 2, 3, and 4 are as follows:

Track 2: 313 of 375 cases (83%) with postponement(s) in FY10 → 117 cases (27%) in FY11

Track 3: 507 of 668 cases (76%) with postponement(s) in FY10 → 212 cases (27%) in FY11

Track 4: 324 of 364 cases (89%) with postponement (s) in FY10 → 135 cases (49%) in FY11

Thus, the number of cases with at least one trial postponement was reduced by more than half, and the percent of terminations without such postponements increased substantially between FY10 and FY11 (Track 2 from 17% to 73%; Track 3 from 24% to 73%; Track 4 from 11% to 51%). One of the unintended consequences of reducing the number of trial postponements is declined case processing performance among the cases with trial postponements. Overall, only 85% of the postponed cases were closed to within the 180-day standard in FY11, compared to 91% in FY10. Even among Track 1 cases, where the percent of postponed cases remained unchanged between FY10 and FY11, the case processing performance declined from 99% to 94%. In addition, the ACTs of over-standard, postponed cases in FY11 is larger than those in FY10, in particular for Tracks 1 and 2. The larger ACT in FY11 is likely due to a change in the composition in the number and types of postponed cases. First, the number of postponed cases declined substantially between FY10 and FY11 primarily due to a procedural change in trial scheduling that eliminated automatically generated trial dates. Second, under the increased

adherence to the Court's postponement policy, the Court granted postponements only when they were needed. Third, as indicated above close to 80% of the over-standard cases, most of which are assumed to have also postponed, were filed under the original DCM plan, and the presence of these cases may be masking the impact of the anticipated improvement in the performance of postponed cases filed under the revised DCM plan. The Court plans to investigate these over-standard cases by Track, postponements, and pre- versus post- July 1<sup>st</sup> status. If the change in case processing performance among cases that had trial postponements can be attributed to the new plan, then firm adherence to this new postponement policy is recommended.

**Table B.4 Criminal Case Terminations by Trial Postponements, Termination Status (Within or Over the 6-month Standard), and Track, FY11**

<u>Terminations <b>With</b> Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within-Standard Terminations			Over-Standard Terminations		
		N	Track	ACT*	N	%	ACT*	N	%	ACT*
Track 0	13	11	85%	89	10	91%	77	1	9%	204
Track 1	1,208	139	12%	83	130	94%	65	9	6%	339
Track 2	432	117	27%	132	108	92%	114	9	8%	351
Track 3	774	212	27%	141	186	88%	124	26	12%	266
Track 4	274	135	49%	190	85	63%	138	50	37%	277
Total	2,701	614	23%	136	519	85%	109	95	15%	286
(FY10)	2,607	1,340	51%	128	1,223	91%	115	117	9%	262
<u>Terminations <b>Without</b> Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within-Standard Terminations			Over-Standard Terminations		
		N	Track	ACT*	N	%	ACT*	N	%	ACT*
Track 0	13	2	15%	49	2	100%	49	0	0%	0
Track 1	1,208	1,069	88%	24	1,069	100%	24	0	0%	0
Track 2	432	315	73%	46	314	100%	46	1	<1%	200
Track 3	774	562	73%	53	560	100%	52	2	<1%	235
Track 4	274	139	51%	92	139	100%	92	0	0%	0
Total	2,701	2,087	77%	40	2,084	>99%	40	3	<1%	223
(FY10)	2,607	1,267	49%	29	1,263	>99%	28	4	<1%	297

\* ACT = Average case time, in days.

#### *Case Terminations by the Number of and Reasons for Trial Postponements*

During FY10, 1,340 criminal cases experienced 1,606 postponements. In contrast, only 614 cases experienced 840 postponements in FY11 though per capita postponements slightly increased to 1.4 from 1.2 in FY10. Table B.5 presents the distribution of cases with trial postponements by number of such postponements and termination status (within- versus over-standard) for FY08 through FY11. For the first time in FY10, more than half of the cases terminated experienced at least one trial postponement. However, in FY11 only 23% of cases experienced trial postponements. In previous years, over 95% of the cases with trial postponements had one (84%) or two (13%) trial postponements; in FY11 the percent of case with one postponement declined to 76%. In return, the percent of the cases with multiple postponements slightly increased. Among within-standard cases, the distribution of postponed cases by the number of trial postponements remains virtually unchanged for the past 4 fiscal years. The breakdown of cases with postponement by termination status between FY10 and FY11 indicates that the most of the reduction in the number of cases with trial postponements in FY11 occurred among those closed within the time standard, again suggesting that the impact of the revised DCM plan.

**Table B.5 Postponed Criminal Cases by the Number of Trial Postponements and Termination Status, FY08-11**

Number of Postponements	All Cases					Within-Standard Cases					Over-Standard Cases				
	FY11		FY10	FY09	FY08*	FY11		FY10	FY09	FY08*	FY11		FY10	FY09	FY08*
	N	%	%	%	%	N	%	%	%	%	N	%	%	%	%
1	468	76%	84%	83%	84%	445	86%	88%	88%	88%	23	24%	33%	35%	72%
2	97	16%	13%	13%	12%	67	13%	10%	11%	11%	30	32%	47%	35%	13%
3	33	5%	3%	3%	2%	6	1%	1%	1%	1%	27	28%	19%	22%	8%
4 or more	16	3%	>1%	1%	2%	1	>1%	>1%	>1%	0%	15	16%	1%	9%	7%
Total	614		1,340	1,189	--	519		1,223	1,088	--	95		117	101	--
% Postponed		23%	51%	48%	49%		20%	49%	46%	42%		97%	97%	95%	87%

\* FY08 figures are based on a sample of 505 criminal cases.

In previous fiscal years, the most frequently cited trial postponement reason for criminal cases was ‘System-Generated Initial Trial Date Not Conformed to Counsels’ Availability,’ accounting for over 70% (72%, 1,158 postponements in FY10) of the trial postponement reasons. As we noted in previous reports, in order to comply with Maryland Rule 4-271, which requires circuit courts to set a trial date for criminal cases within 30 days after the appearance of counsel or the first appearance of the defendant, whichever comes first, Montgomery County Circuit Court used to automatically schedule a trial date within the 30-days when the case is filed in the Criminal Department *without* consulting involved parties. As a result, many trials were later rescheduled. However, in FY11, the Court implemented a revised trial scheduling procedure to eliminate the automatic scheduling of trials without consultation with parties and their counsel in order to eliminate trial postponements due to ‘System-Generated Initial Trial Date Not Conformed to Counsels’ Availability.’ As shown Table B.6 below, which compares the number of overall trial postponements and those that resulted in over-standard (OST) terminations for FY10 and FY11, the impact of the revised schedule policy is evident; trial postponements due to ‘System-Generated Initial Trial Date Not Conformed to Counsels’ Availability’ are still present in FY11, but their number was significantly reduced to 347, only accounting for 41% of all the postponements (in FY10, 1,158 such postponements accounting for 72% of all postponements). As a result, the overall number of trial postponements is now reduced to fewer than 500 (493 postponements) in FY11 from over 1,600 (1,604 postponements) in FY10.

Interestingly, among over-standard cases, the percent of cases with 2 and 3 postponements increased substantially from 19% to 28% and 1% to 16%, respectively, between FY10 and FY11 as a result of the reduction in postponements under the revised DCM plan. In FY09, due to the time standard change that had eliminated the time between verdict and sentencing, the proportion of cases with a single postponement among over-standard cases declined to 35%. Before this change, even having a single trial postponement significantly increased the chance of an over-standard termination; in fact, in FY08 the majority (72%) of over-standard cases had a single trial postponement. However, the change in the time standard in FY09 led to the proportion of cases with multiple postponements to increase from 13% to 35% for those with 2 trial postponements, and from 8% to 22% for those with 3 trial postponements between FY08 and FY09. In FY10, 33% of over-standard cases had one trial postponement, 47% with 2 postponements and 19% with 3 postponements. As indicated above, the Court implemented a policy effective July 1, 2010 of setting trial dates with counsel present at a scheduling hearing to reduce the number of postponement requests. While this change reduced the number of cases with one and two postponements from 39 to 23 and from 55 to 30, respectively, between FY10 and FY11, it did not affect the number of cases with 3 or more postponements. Between FY10 and FY11, the number of case terminations with 3 postponements increased from 22 to 27; the number of case terminations with 4 or more postponements increased from 1 to 15. At this point it is not certain whether the increase of cases with multiple postponements was due to an increase in the number of complex cases that would normally require trial postponements or due to the presence of the aforementioned old cases under the ‘old regime’ (or both). However, given that 80% of the over-standard cases were filed before the implementation of the revised DCM plan, it is more likely that the cases with 3 or more postponements were filed and processed under the original DCM plan.

**Table B.6 Trial Postponement Reasons and Termination Status, FY11 and FY10**

Postponement Reasons	FY2011					FY2010			
	All		OST		% OST	All Postponements			% OST
	Postponements		Postponements			N	%	Rank	
	N	%	N	%					
Total	840		239		29%	1,606			14%
System-Generated Initial Trial Date Not Conformed to Counsels' Availability	347	(41%)	63	(26%)	18%	1,158	(72%)		9%
Non-'System-Generated Initial Trial Date...' Reasons									
Calendar Conflict	79	16%	24	14%	30%	52	12%	3	19%
Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare Settlement, Plea or Reconciliation in Progress	69	14%	24	14%	35%	59	13%	2	46%
Witness Unavailable - New Witness Identified	63	13%	13	7%	21%	78	17%	1	14%
New Counsel Sought or Has Entered their Appearance or Not Appointed	57	12%	17	10%	30%	49	11%	4	20%
Illness/Medical Emergency or Death	53	11%	27	15%	51%	47	10%	5	30%
Pending Motions to Be Heard or Ruled On	46	9%	18	10%	39%	18	4%	7	28%
Postponed (Trailed), or Jurors Unavailable	21	4%	19	11%	90%	4	1%	19	25%
Police Officer Not Available	14	3%	1	1%	7%	--	--	--	--
Increase/Decrease Court Time/Track Change Behind another Case	13	3%	5	3%	38%	14	3%	9	36%
Vacation Plans/Religious Reasons	12	2%	6	3%	50%	14	3%	9	43%
Mental Evaluation Incomplete	12	2%	1	1%	8%	3	1%	20	33%
Forensic Evidence Incomplete	11	2%		0%	0%	17	4%	8	24%
Competency Evaluation Ordered	10	2%	7	4%	70%	10	2%	12	60%
New Complaint, Petition, 3rd Party Complaint, or Consolidation Pending/Complaint Not at Issue or Ripe	8	2%	4	2%	50%	6	1%	15	33%
Defendant/Respondent/Plaintiff Not Transported/Writ Never Requested	6	1%	3	2%	50%	11	2%	11	36%
Request for Services (e.g. Private Custody & Mental Health Evaluations, Private Mediation)	5	1%		0%	0%	6	1%	15	0%
Defendant or Respondent - Postponement Reason Not Disclosed	5	1%	3	2%	60%	1	0%	23	0%
Defendant/Respondent Is Participating in a Rehabilitation Program	3	1%	2	1%	67%	1	0%	23	100%
Interpreter or ADA Special Needs Requested	2	0%		0%	0%	8	2%	13	0%
Weather/Court Emergencies/Administrative Court Closure	2	0%	1	1%	50%	--	--	--	--
Party(s) Did Not Receive Notice of Court Date or They Were Not Served	1	0%	1	1%	100%	8	2%	13	25%
Case Not Reached or Was on the To-Be-Assigned Docket and Not Reached	1	0%		0%	0%	3	1%	20	0%
Chemist Not Available	--	--	--	--	--	24	5%	6	4%
Reports and Evaluations Not Completed/Re-Evaluation Ordered	--	--	--	--	--	6	1%	15	17%
Judge Unable to Reach Court Event (e.g. Illness, Scheduling Conflict)	--	--	--	--	--	5	1%	18	40%
Subpoena Not Issued for Witness	--	--	--	--	--	3	1%	20	0%
Sub Total	493	100%	176	100%	36%	448	100%	113	25%

While the overall number of trial postponements was greatly reduced, the comparison of the 493 postponements of FY11 and the 448 postponements of FY10 without 'System-Generated Initial Trial Date Not Conformed to Counsels' Availability' postponements yields interesting observations. First, the number of non-'System-Generated ...' postponements actually increased by 10% from 448 to 493 between FY10 and FY11 while the overall terminations increased by only 4%. Again, it is likely that the majority of these postponements occurred among the

cases filed and processed under the original DCM plan. Second, the percent of cases with trial postponement that also resulted in over-standard terminations increased from 25% in FY10 to 36% in FY11. For example, in both fiscal years, the same 5 trial postponement reasons – Calendar conflict, Discovery/ADR incomplete, Plea in progress, Witness unavailable/New witness identified – were identified as the most common postponements accounting for close to two-thirds of all postponements (65% in FY11 and 64% in FY10). However, the likelihood of these postponements resulting in an over-standard termination increased from 25% to 33%. This increase may be due to the substantial change in the number of the trial postponements between FY10 and FY11 (as discussed above), which in turn may have affected the likelihood of a given postponement reason resulting in over-standard terminations. Third, FY11 found two additional postponement reasons as potentially impacting the Court's case processing performance: Illness/medical emergency or death, over which the Court has no control, (46 postponements with 39% resulting in OST in FY11; 18 postponements with 28% resulting in OST in FY10) and Pending motions to be heard or ruled on (21 postponements with 90% resulting in OST in FY11; 4 postponements with 25% resulting in OST in FY10). While the revised criminal DCM plan led to the substantial reduction in the number of trial postponements through a more efficient trial scheduling process, the results, which include cases filed under the original and revised DCM plans, may have brought about some unexpected results such as the increased percentage in postponed cases closing over-standard. An additional analysis is needed to identify factors associated with the increase in postponements and their impact on over-standard terminations.

### *Identifying the Impact of the New Criminal DCM Plan on the Case Processing Performance*

As discussed above, the FY11 criminal case processing performance is a product of the two different case management plans: the original DCM Plan for the cases filed before July 1, 2010 and the new DCM Plan for those filed on or after July 1, 2010. In this section, the FY11 case assessment data is divided into two groups by their case filing date, and performance is compared between cases filed before FY11 and those filed during FY11. Additionally, for comparison purposes, results from cases filed and closed in FY10 and preliminary data from cases filed and closed in FY12 are included (See Table B.7). Close to 80% (77%) of the cases terminated during FY11 were filed after July 1<sup>st</sup>, 2010 ('post-July 1<sup>st</sup>'), and the case processing performance of those cases is far better than those filed before July 1<sup>st</sup> ('pre-July 1<sup>st</sup>') – 99% of them closed within the 180-day time standard, compared with 88% among pre-FY11 cases.

To determine whether this observed pre- vs. post- differential in FY11 is due to the new DCM plan or a difference in the timing of filing, we compared the FY11 results with those of FY10 where all cases were processed under the original DCM plan. The comparison of the Court case processing performance of the two periods indicates that the observed pre- versus post- differential is largely due to the timing of filing. The differential observed among FY10 terminations, all of which were processed according to the original DMC plan, is nearly identical to that of FY11. The FY11 pre-July 1<sup>st</sup> performance, which was under the old DCM Plan, is identical to that of FY10 with the identical percent of cases closed within standard though the ACT for overall and cases closed within the standard slightly improved for FY11. Regarding the post-July 1<sup>st</sup> performance (i.e., filed and closed in the same fiscal year), the percent of cases closed within the time standard improved from 98% in FY10 to 99% in FY11. In terms of ACT, the FY11 overall ACT and that among within-standard cases substantially improved for both pre- and post-cases, whereas ACT for over-standard cases, the majority of which were filed and processed under the original DCM plan, remained at the FY10 level.

When we compared the FY11 terminations with the preliminary FY12 terminations of the first 5 months (cases terminated between July 1<sup>st</sup> and November 8<sup>th</sup> 2011), the percent of cases closed with standard among pre-July 1<sup>st</sup> cases increased to 93% from 88% with additional 15-day reduction in ACT among within-standard cases and a 30-day reduction among over-standard cases. Among post-July 1<sup>st</sup> terminations, so far all the cases filed after July 1, 2011 were closed within the time standard, another 1 percentage point improvement from the FY11 performance with a similar 15-day reduction in ACT for all cases and among within-standard. It remains to be seen if the Court is going to maintain or even improve its case processing performance from what has been observed in the first six

months of FY12. It appears that this all depends upon how well the Court processes the cases filed before July 1<sup>st</sup> 2011 since their case processing performance largely determines the Court's overall criminal case processing performance.

**Table B.7 Criminal Cases Processing Performance by filing date, FY10-12**

	Total Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	%	ACT*	N	%	% WST*	ACT	N	%	% OST*	ACT
FY11	2,701		62	2,603		96%	53	98		4%	284
Filed before 7/1/10	624	23%	117	546	21%	88%	91	78	80%	13%	298
Filed after 7/1/10	2,077	77%	45	2,057	79%	99%	43	20	20%	1%	231
FY10	2,607		80	2,486		95%	71	121		5%	263
Filed pre 7/1/09	694	27%	126	610	25%	88%	105	84	69%	12%	276
Filed after 7/1/09	1,913	73%	63	1,876	75%	98%	60	37	31%	2%	233
FY12 (to date)	860		63	825		96%	55	35		4%	267
Filed before 7/1/11	473	55%	91	438	53%	93%	77	35	100%	7%	267
Filed after 7/1/11	387	45%	30	387	47%	100%	30	0	0%	0%	0

### *Summary of Criminal Findings*

- In FY11, the percentage of criminal cases closed within the state's 6-month time standard was 96% comparable to FY10 (95%) and FY09 (96%) based on the revised the criminal case time standard that measures the case time between the first appearance and verdict instead of sentencing. Based on the old time standard, the FY11 performance is 91%, equivalent to that of previous years' performance (89% for FY10, 88% for FY09).
- Nearly half (45%) of all cases that closed in FY11 were Track 1 cases and over 99% of the cases closed within the time standard. In FY09, over 98% of the Track 2 cases also closed within-standard; however, in FY10, only 94% of the Track 2 cases exceeded the 6-month time standard. In FY11, the Track 2 case processing performance improved back to 98%. The case processing performance of Tracks 3 and 4 cases remained unchanged between FY10 and FY11 (96% for Track 3 and 82% for Track 4).
- In terms of criminal case sub-type, indictments were the only sub-type that failed to meet the 98% state goal in FY11 though its performance improved to 93% from 90% in FY10. In FY10, the case processing performance of information cases was 97%; in FY11 the percentage improved to 98% meeting the state goal.
- In FY10, for the first time since the caseload assessment was implemented, over 50% of the terminated cases experienced at least one trial postponement. However, in FY11, due to policy changes implemented as part of the revised criminal DCM plan, the number of cases with trial postponements was reduced to 614 from 1,604 in FY10. Most of the reduction in the number of cases with trial postponements was realized among within-standard cases and among cases with one or two postponements; in fact, among over-standard cases, the number of cases with 3 or more postponements increased in FY11.
- As found in previous fiscal years, the most-frequently reported trial postponement reason was 'System-Generated Initial Trial Date Not Conformed to Counsels' Availability,' which accounted for 72% of all the trial postponements in FY10, presumably associated with cases filed and processed under the original DCM plan. In FY11, this postponement reason was still most common, but its share was reduced to 41% due to the elimination of the policy to automatically schedule trial dates as well as postponements associated with that automated trial date.
- The comparison of the non-'System-Generated Initial Trial Date ...' postponements between FY10 and FY11 indicates that the number of those postponements actually increased by 10% from 448 to 493 while the overall terminations increased by only 4%. Second, the percent of cases with trial postponement resulted in over-standard terminations from 25% in FY10 to 36% in FY11.
- FY11 was the first year where the majority of the terminated cases were processed under the revised Criminal DCM Plan. As expected, the number of trial postponements declined substantially. Unfortunately this change would not result in substantial improved criminal case processing performance because its impact was somehow limited to within-standard cases largely because most of over-standard cases were filed before the implementation of the revised DCM Plan and thus were processed under the old "regime".

### *Recommendations for Montgomery County Circuit Court*

- Group over-standard cases in terms of pre- versus post-revised DCM Plan and compare the Court's processing of these cases in more detail to identify the impact of the revised DCM plan on the Court criminal case processing performance.
- Conduct an in-depth analysis of Track 4 information and indictment cases to identify factors that may be associated with over-standard terminations. Review how well these cases are performing against the appropriate DCM guidelines to identify at which stage of the case that performance begins to falter.
- Evaluate trial postponements in conjunction with case sub-type and DCM Track to see if trial postponements are heavily concentrated among cases of certain sub-types and/or Track. Review case files and hearings to identify the circumstances that lead to trial postponements and precise reasons for the postponements in particular among over-standard cases.
- Investigate the substantial increase in the number of non-'System-Generated Initial Trial Date ...' postponements and identify factors associated with the increase in postponements and their impact on over-standard terminations.

### *Recommendations for the Circuit Court Time Standards Sub-Committee*

- Certain suspensions such as interlocutory appeals do not necessarily inactivate a case. In such situations, the court can and does move forward with the case, and it may not be appropriate to exclude such time from the calculation of the case processing time. The Circuit Court Time Standard Sub-Committee is requested to address this and develop guidelines as to how it should be handled by JIS and/or individual courts. For example, the case time may be suspended only when the scheduled event is postponed due to one of the suspension events (as in the case of DNA suspensions) or when the case was stayed because of the event.
- For a suspension event such as competency and DNA/forensic test results, the event begins with the competency evaluation order or postponement of a scheduled event due to the unavailability of DNA/forensic results and ends with the date of the next event, supposedly a competency hearing or trial, which may occur some time after the results of the competency evaluation or DNA/forensic test results are received. Essentially, the competency or DNA/forensic suspension event includes some additional time between receipt of the competency evaluation or DNA/forensic results and the date of the next court event. In the case of competency, it makes sense not to have the receipt of the evaluation as the suspension end date since the competency suspension would end only when a defendant is found to be competent. If receipt of the evaluation is made then the suspension will stop, and this would result in multiple suspensions of the same kind, which the statewide Caseflow Assessment Application is currently unable to handle (except for FTA/bench warrant suspensions). However, the problem arises when the next event is not the one that is expected (e.g., competency hearing or trial), resulting in a shortened suspension. On the other hand, by using the next concluded/continued scheduled event more time is being taken out than is necessary because once that event is scheduled by the Court, such scheduling implies that a determination has been made that the defendant is competent and not NCR. It is recommended that the Time Standards Sub-Committee review this issue as it may be advisable to define a certain docket entry (such as an order of scheduling the next event that normally results when a defendant found competent, NCR or not NCR) as a possible suspension stop date. In some cases, a defendant expecting a plea agreement, files a motion to withdraw all existing motions/petitions, which sometimes includes a request for forensic tests and/or NCR/competency evaluation. Accordingly, it is requested that the Subcommittee also consider such docket entry as a valid suspension stop.

# Domestic Relation Case Terminations

## Fiscal Year 2011 Case Terminations

### C. Domestic Relations Case Processing Definitions and Summary

	Domestic Relations Case Time Definitions	Percentage of Cases Closed within Time Standards	Average Case Processing Time	Additional Montgomery County Measurements†
<b>Domestic Relations Case Standards and Montgomery County Measures</b>		<u>State-Set Goal:</u> 90% within 12 months 98% within 24 months  <u>Montgomery County:</u>  12-month standard: CY 2001: 92% CY 2002: 91% CY 2003: 92% FY 2005: 90% FY 2006: 91% FY 2007: 90% FY 2008*: 90% FY 2009: 92% FY 2010: 92% FY 2011: 93%  24-month standard: CY 2001: N/A CY 2002: 99% CY 2003: 100% FY 2005: 99% FY 2006: 100% FY 2007: 99% FY 2008*: >99% FY 2009: >99% FY 2010: >99% FY 2011: >99%		
	<u>Case Time Start:</u> Filing of Case.  <u>Case Time Stop:</u> Disposition, dismissal, or judgment. Judgment in limited divorce cases if the limited divorce is the only issue.		CY 2001: N/A CY 2002: 187 days CY 2003: 185 days FY 2005: 173 days FY 2006: 154 days FY 2007: 157 days FY 2008*: 155 days FY 2009: 148 days FY 2010: 150 days FY 2011: 144 days	<u>Circuit Court Filing to Service/Answer, whichever comes first:</u> CY 2001: 39 days CY 2002: 44 days CY 2003: 43 days FY 2005: 46 days FY 2006: 44 days FY 2007: 41 days FY 2008*: 39 days FY 2009: 58 days FY 2010: 36 days FY 2011: 49 days
Note: Domestic relations case time is suspended for bankruptcy stay, interlocutory appeal, body attachment, military leave, and no service in child support cases after 90 days from filing, and collaborative law start. * FY2008 results are based on a sample of 510 domestic relations. †Additional measure was calculated by Data Processing based on its sample for FY2001 and FY2009.				

### Overall Domestic Relations Case Terminations

In FY11, as in FY10 and FY09, seven Circuit Court Judges presided over family law matters full-time and another judge presided over such matters part-time, and five Family Division Masters heard family law matters. The Judges preside over trials and merit hearings, and the Masters also preside over merit hearings. At Montgomery County Circuit Court, these Family Division Masters hear the following events:

- Scheduling Conferences
- Pendente Lite Hearings



- Settlement Status Conferences (custody issues)
- Settlement Pretrial Conferences (property and monetary issues)
- Support of Dependents
- Uncontested Divorces
- Contempt
- Earnings Withholding Hearings
- Any issues, by Order and Agreement of the Parties

However, when any event exceeds one day in length, the matter is set before a Judge. Table C.1 provides the number of original domestic relations (DR) case terminations and the average case time (ACT) by case termination status for FY04 and FY11.

In FY11, the Court processed a total of 8,034 original DR case terminations, a slight increase of 258 cases (3%) from the FY10 level (7,776 cases). This was the smallest increase that the Court experienced since FY04, except for the decline in terminations between FY08 and FY09. Between FY04 and FY08, the number of terminations increased with an average of about 1,000 cases per year except for between FY06 and FY07 when the increase was much smaller (354 cases). The FY09-FY10 increase (336 cases) is somewhat equivalent to the FY06-FY07 increase. The Court's overall DR case processing performance for FY11 shows a slight improvement from FY10; the percentages of DR cases terminated within the 12- and 24-month standards in FY11 was 93%, a one percentage point increase from FY09, and 99%, respectively, thus meeting the state-defined goals of closing 90% of cases within 12 months and 98% in 24 months.

The overall ACT for FY11 terminations was 144 days, 6 days shorter than the FY10 ACT (150 days). Under the 12-month standard, the FY11 ACT among within-terminations was 119 days, a slight improvement from the FY10 level (121 days), and the ACT among over-standard terminations was 498 days, slightly longer than the FY10 ACT (494 days). Under the 24-month standard, the FY11 ACT among within- and over-standard terminations was 140 days (the second shortest after the FY04 ACT) and 950 days, respectively.

**Table C.1 Number of Domestic Relations Case Terminations FY04-FY11**

Fiscal Year	Total Terminations		12-month Standard						24-month Standard					
			Within-Standard Terminations			Over-Standard Terminations			Within-Standard Terminations			Over-Standard Terminations		
	N	ACT*	N	%	ACT	N	%	ACT	N	%	ACT	N	%	ACT
FY04	4,386	129	4,047	92%	98	339	8%	499	4,362	100%	124	24	<1%	1,043
FY05	5,364	173	4,818	90%	133	546	10%	534	5,316	99%	164	48	1%	1,255
FY06	6,368	154	5,820	91%	123	548	9%	493	6,337	100%	151	27	<1%	872
FY07	6,722	157	6,066	90%	118	656	10%	522	6,666	99%	150	56	1%	988
FY08**	(510)	155	(460)	90%	117	(50)	10%	505	(508)	>99%	152	2	<1%	946
FY09	7,440	148	6,841	92%	117	599	8%	505	7,393	>99%	148	47	<1%	916
FY10	7,776	150	7,182	92%	121	594	8%	494	7,737	99%	146	39	1%	927
<b>FY11</b>	<b>8,034</b>	<b>144</b>	<b>7,491</b>	<b>93%</b>	<b>119</b>	<b>543</b>	<b>7%</b>	<b>498</b>	<b>8,992</b>	<b>&gt;99%</b>	<b>140</b>	<b>42</b>	<b>&lt;1%</b>	<b>950</b>

Maryland domestic relations case time standards and goals: 12 and 24 months and 90% for 12-month and 98% for 24-month within-standard terminations

\* ACT = Average Case Time, in days.

\*\* The full domestic caseload for FY08 was 7,673. The 510 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

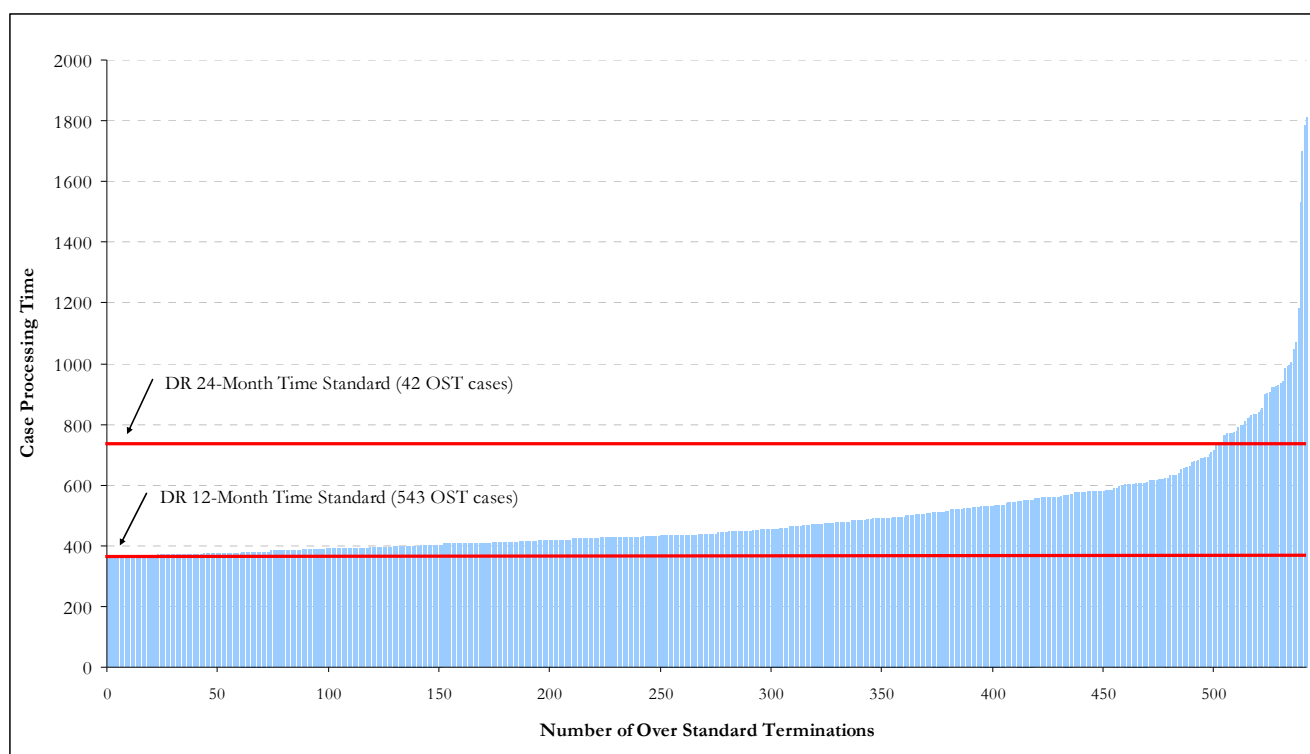
**Table C.2 Distribution of Over-Standard Domestic Relations Cases, FY07-FY11**

Fiscal Year	N	Mean	Median	Percentile						
				5	10	25	75	90	95	Max
FY07	656	522	463	373	381	407	574	708	823	5,189
FY08*	50	505	445	379	382	390	564	711	714	1,080
FY09	599	505	458	374	381	405	551	687	799	1,559
FY10	594	494	450	375	379	399	525	662	757	1,684
<b>FY11</b>	<b>543</b>	<b>498</b>	<b>440</b>	<b>370</b>	<b>376</b>	<b>399</b>	<b>541</b>	<b>660</b>	<b>822</b>	<b>1,814</b>

\*Based on a sample of 510 domestic relations cases.

Table C.2 compares the distribution of over-standard cases for FY07 through FY11. The FY11 percentile figures are fairly equivalent to those of FY10 except for the 95<sup>th</sup> percentile and maximum values for which the FY11 experienced substantially larger figures than FY10. In fact, the maximum case time for FY11 (1,814 days) is the largest among FY08-FY11 figures.

There are only 8 cases with case times over 1,000 days in FY11 (10 cases in FY10 and 9 cases in FY09). In FY09, 30 cases had a case time of 800 days or over; in contrast, in FY10 only 15 cases had their case time equal to or greater than 800 days. In FY11, 29 cases had a case time of 800 days or over. One of the reasons for particularly long case times was due to post-judgment motions filed before or about the same time the judgment for absolute divorce was granted, thus rendering cases to remain open after the judgment of the main charge was delivered. The additional time the Court spent to resolve post-judgment issues vary. For example, among the FY10 terminations, the length of time to resolve post-judgment issues ranged from 1 day to 1,094 days with an average of 160 days (414 days for FY09). Case time suspension events were not taken into account in this analysis. Among the 2,876 FY11 case terminations with the judgment of absolute divorce, 18 cases had judgment of absolute divorce granted in before FY11 with the largest case time being 562 days between judgment and case closure.



**Figure C.1 Distribution of Over-Standard Domestic Relations Cases, FY11**

### *Case Terminations by Track*

Montgomery County's Differentiated Case Management (DCM) Plan established the following six tracks for DR cases:

Track 0: Uncontested divorce without summons (824 terminations in FY11; 749 in FY10)

Track 1: Uncontested divorce with summons (2,333 terminations in FY11; 2,263 in FY10)

Track 2: No physical custody issues and limited discovery (809 terminations in FY11; 869 in FY10)

Track 3: Physical custody issues and/or divorce with moderate discovery (516 terminations in FY11; 551 in FY10)

Track 4: “Judge Track,” reserved for cases involving extensive property holdings, complicated business valuations, significant assets held in various forms, pensions, alimony and other support issues along with custody, visitation and divorce (5 terminations in FY11 and FY10)

No Track (“Track N”): Cases with other issue(s) including but not limited to: Guardianships, Uniform Support, Change of Name, Paternity, URESA, and waiver of court costs (3,547 terminations in FY11; 3,339 in FY10)

**Table C.3 FY11 Domestic Relations Case Terminations by Termination Status (Within or Over the 12- and 24-month Standards) and Track**

Overall Terminations				Within-Standard Terminations				Over-Standard Terminations			
DCM Track	N	% of Total	ACT*	N	% of WST*	% of Track	ACT*	N	% of OST*	% of Track	ACT*
12-month Standard											
Track 0	824	10%	56	818	10%	>99%	53	6	1%	<1%	395
Track 1	2,333	29%	154	2,242	30%	96%	142	91	17%	4%	458
Track 2	809	10%	268	638	9%	79%	208	171	31%	21%	492
Track 3	516	6%	338	318	4%	62%	219	198	36%	38%	531
Track 4	5	<1%	550	0	0%	0%	0	5	<1%	100%	550
Track N	3,547	44%	102	3,475	46%	98%	94	72	13%	2%	479
Total	8,034	100%	144	7,491	100%	93%	119	543	100%	7%	498
24-month Standard											
Track 0	824	10%	56	824	10%	100%	56	0	0%	0%	0
Track 1	2,333	29%	154	2,331	29%	>99%	154	2	5%	<1%	815
Track 2	809	10%	268	796	10%	98%	258	13	31%	2%	893
Track 3	516	6%	338	493	6%	97%	309	23	55%	4%	965
Track 4	5	<1%	550	5	<1%	100%	550	0	0%	0%	0
Track N	3,547	44%	102	3,543	44%	>99%	100	4	10%	<1%	1,115
Total	8,034	100%	144	7,992	100%	99%	140	42	100%	1%	950

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

As indicated above, FY11 experienced a slight increase in terminations from FY10. While the composition of FY11 terminations by Track closely resembles that of FY10, the majority of the FY10-FY11 increases derive from Track N, which increased by 208 cases from 3,339 cases in FY10 to 3,547 in FY11. Track N cases also increased between FY09 and FY10. Between FY09 and FY10, terminations of cases assigned to Tracks 2 and 3 also increased by 59 cases and 48 cases, respectively. In contrast, between FY10 and FY11, terminations of both tracks declined by 60 cases and 35 cases, respectively. Furthermore, FY10 experienced fewer terminations in cases assigned to Tracks 0 and 1 than FY09 (decreased by 121 and 29 cases, respectively); however in FY11, the number of terminations in both Tracks increased (Track 0 by 75 terminations and Track 1 by 70 terminations). Table C.3 summarizes the number and distribution of DR cases and their case processing performance (percent of cases closed within- and over-standard and corresponding ACTs) by track. While the table provides results according to the 12- and 24-month time standards, the report mainly discusses results associated with the 12-month standard.

As observed in the past, over 70% of the originally terminated DR cases were either Track 1 (29%) or Track N (44%) and another 20% of the case terminations were from Track 0 (10%) and Track 2 (10%). Cases in these tracks, except for Track 2, are characterized with a relatively short ACT (Track 0: 56 days, Track 1: 154 days, and Track N: 102days) and thus a high percentage of cases closed within-standard, ranging from 96% in Track 1 cases to nearly 99% in Track 0 cases. Cases in Tracks 0, 1, and N accounted for 83% of the DR cases for FY11 (82% in FY10, 83% in FY09, 82% in FY08, 79% in FY07).

The remaining 1,320 cases assigned to Tracks 2, 3, and 4 (almost 100 cases fewer than FY10, N = 1,425 cases) accounted for 16% of the originally terminated DR cases in the FY11 data (18% in FY08, FY09 and FY10, 20% in FY07). These terminations are characterized with a substantially larger ACT and a much lower within-standard termination rate than Tracks 1, 0, and N cases. The overall FY11 ACT for Tracks 2 and 3 cases are 268 days (284 days in FY10 and 293 days for FY09) and 338 days, respectively, (330 days in FY10 and 352 days for FY09), respectively. The percent of cases closed within the 12-month standard for Track 2 cases improved by 4 percentage points to 79% in FY11 (75% in FY10 and 71% in FY09); however, performance for Track 3 cases declined by one percent point to 62% (63% in FY10 and 56% in FY09).

While the Court's DR case processing performance has been above the statewide goal, its performance has been rather stagnant. The planned revision/update of the Domestic Relations Differentiated Case Management (DCM) Plan is expected to provide ways to further improve its case processing performance.

#### *Case Terminations by the Number of and Reasons for Trial Postponements*

Table C.4 compares the number, percentage, and ACT of DR cases according to DR DCM tracks, whether or not they had trial postponements, and whether or not they closed within the 12-month time standard. Similar to previous fiscal years, during FY11, only 2% (1,710) of the 8,034 closed cases experienced at least one trial postponement. As observed in previous years, over 90% of trial postponements were found in Tracks 2 and 3 (91%, 94% for FY10 and 96% for FY09) since Tracks 0 and 1 cases rarely go to trial because of the nature of cases assigned to those tracks.

**Table C.4 FY11 Domestic Relations Case Terminations by Trial Postponements, Termination Status (Within or Over the 12-month Standard), and Track**

<u>Terminations <b>With</b> Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within-Standard Terminations % of			Over-Standard Terminations % of		
		N	Track	ACT*	N	Track	ACT*	N	Track	ACT*
Track 0	824	0	NA	NA	0	NA	NA	0	NA	NA
Track 1	2,333	2	<1%	674	0	0%	0	2	100%	674
Track 2	809	85	11%	389	48	56%	245	37	44%	576
Track 3	516	71	14%	514	27	38%	290	44	62%	652
Track 4	5	3	60%	562	0	0%	0	3	100%	562
Track N	3,547	10	<1%	355	8	80%	271	2	20%	691
Total	8,034	171	2%	445	83	49%	262	88	51%	618
<u>Terminations <b>Without</b> Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within-Standard Terminations % of			Over-Standard Terminations % of		
		N	Track	ACT*	N	Track	ACT*	N	Track	ACT*
Track 0	824	824	100%	56	818	99%	53	6	<1%	395
Track 1	2,333	2331	100%	154	2,242	96%	142	89	4%	453
Track 2	809	724	89%	254	590	81%	205	134	19%	469
Track 3	516	445	86%	310	291	65%	212	154	35%	496
Track 4	5	2	40%	533	0	0%	0	2	100%	533
Track N	3,547	3537	100%	101	3,467	98%	93	70	2%	473
Total	8,034	7863	98%	138	7,408	94%	117	455	6%	475

\* ACT = Average case time, in days.

Overall, cases with trial postponements took an average of 445 days (an additional 37 days compared to FY10 average (408 days)) to close compared with 138 days among cases without such postponements. Among cases closed within the 12-month time standard, the ACT for cases with trial postponements (262 days) is nearly twice as long as those without trial postponements that closed within-standard (117days). Among over-standard cases, the

ACT for cases with trial postponements is 618 days, 144 days longer than for those without such postponements (475 days). However, these comparisons of ACT between cases with and without trial postponement(s) may not be appropriate since the analysis does not control for the fact that a case actually went to a trial or the composition of cases by sub-type.

Having trial postponements on average reduces the probability of within-standard terminations from 94% to 49% (it was 92% vs. 52% in FY10). Among cases assigned to Tracks 2 and 3, having trial postponements substantially increases the likelihood of cases terminating over-standard to 44% (19% without postponements) and 62% (35% without postponements), respectively. However, since one-fifth of Track 2 cases and over one-third of Track 3 cases without trial postponements resulted in over-standard terminations, other factors such as the time it took for a case to become ripe, pre-trial postponements, filings of post-judgment motions before final judgment, and the general scheduling practices of these cases may also have impacted the progress of the cases assigned to these tracks. Additional investigation is necessary to identify and confirm such factors.

Table C.5 provides the distribution of the case terminations by the number of trial postponements and case termination status for FY08-FY11. In general, findings for FY11 are consistent with those found in FY09 and FY10. Overall, only 2% of cases experienced trial postponements; among within-standard cases, only 1% of cases were postponed; among over-standard cases, the percentage is much higher at 15-16%.

**Table C.5 Postponed Domestic Relations Cases by the Number of Trial Postponements and Termination Status, FY08-FY11**

Number of Postponements	All Cases					Within-Standard Cases					Over-Standard Cases				
	FY11	FY10	FY09	FY08*		FY11	FY10	FY09	FY08*		FY11	FY10	FY09	FY08*	
	N	%	%	%	%	N	%	%	%	%	N	%	%	%	%
1	137	80%	82%	85%	60%	75	90%	91%	94%	75%	62	70%	73%	80%	50%
2	26	15%	15%	12%	30%	7	8%	7%	4%	25%	19	22%	23%	15%	33%
3	7	4%	2%	3%	10%	0	0%	1%	2%	0%	7	8%	3%	3%	17%
4 or more	1	1%	1%	1%	0%	1	1%	1%	0%	--	0	0%	1%	1%	--
Total	171	100%	100%	100%	100%	83	100%	100%	100%	100%	88	100%	100%	100%	100%
% Postponed		2%	2%	2%	2%		1%	1%	1%	1%		16%	15%	16%	12%

\* FY08 figures are based on a sample of 505 criminal cases.

Table C.6 presents the reasons for the 216 trial postponements experienced by 171 postponed DR cases terminated during FY11 (1.3 postponements per case). As observed in the previous years, the most frequently cited postponement reason is 'Calendar Conflict' (41 postponements (19%), 40 postponements (17%) in FY10). The top 4 most commonly used postponement reasons – Calendar conflict, Illness/medical emergency or death, Discovery/ADR incomplete, and Witness unavailable – identified in FY09 and FY10 remain as most common in FY11, accounting for 57% of all postponements (59% in FY10).

**Table C.6 Trial Postponement Reasons and Termination Status, FY11**

Postponement Reason	All Cases		Over-Standard Cases		% of Over-Standard/ All Cases
	N	%	N	%	
Calendar Conflict	41	19.0%	14	11.6%	34.1%
Illness/Medical Emergency or Death	36	16.7%	27	22.3%	75.0%
Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare	25	11.6%	17	14.0%	68.0%
Witness Unavailable - New Witness Identified	20	9.3%	7	5.8%	35.0%
Settlement, Plea or Reconciliation in Progress	18	8.3%	13	10.7%	72.2%
New Complaint, Petition, 3rd Party Complaint, or Consolidation	12	5.6%	10	8.3%	83.3%
Pending/Complaint Not at Issue or Ripe	10	4.6%	3	2.5%	30.0%
Party(s) Did Not Receive Notice of Court Date or They Were Not Served	10	4.6%	3	2.5%	30.0%
Reports and Evaluations Not Completed/Evaluation Reordered	8	3.7%	4	3.3%	50.0%
Weather/Court Emergencies/Administrative Court Closure	7	3.2%	4	3.3%	57.1%
Increase/Decrease Court Time/Track Change Behind another Case	6	2.8%	2	1.7%	33.3%
New Counsel Sought or Has Entered their Appearance or Not Appointed	6	2.8%	4	3.3%	66.7%
Judge Unable to Reach Court Event (e.g. Illness, Scheduling Conflict)	4	1.9%	1	0.8%	25.0%
Postponed (Trailed), or Jurors Unavailable	3	1.4%	3	2.5%	100.0%
Defendant/Respondent/Plaintiff Not Transported/Writ Never Requested	3	1.4%	3	2.5%	100.0%
Interpreter or ADA Special Needs Requested	3	1.4%	1	0.8%	33.3%
Mental Evaluation Incomplete	3	1.4%	2	1.7%	66.7%
Vacation Plans/Religious Reasons	3	1.4%		0.0%	0.0%
Judge Disqualified/Recused from Case	2	0.9%	1	0.8%	50.0%
Military Service	2	0.9%	2	1.7%	100.0%
Pending Motions to Be Heard or Ruled on	1	0.5%		0.0%	0.0%
Request for Services (e.g. Private Custody & Mental Health Evaluations, Private Mediation)	1	0.5%	1	0.8%	100.0%
Under Advisement	1	0.5%	1	0.8%	100.0%
On TBA Docket and Not Reached by the Court	1	0.5%	1	0.8%	100.0%
Total	216	100.0%	121	100.0%	56.0%

### ***Case Terminations by Main Charge***

Table C.7 presents the number of case terminations during FY08-FY11 by the main charge. Overall, 47% of the cases focused on the dissolution of marriage, including absolute divorce (45%), limited divorce (2%), and annulment of marriage (less than 1%). However, among cases with over-standard terminations, the percentage of divorce-related cases was much greater (80% in FY11, 81% in FY10, 85% in FY09). In addition to the separation period required by law for parties before they proceed to divorce, since divorce cases normally involve child custody/access issues, which generally require out-of-court services, as well as other property/financial issues, it may be reasonable to expect some of these cases to take longer than others. In addition, these issues may sometimes remain as post-judgment matters even after divorce is granted, preventing the Court from closing the case at the judgment of divorce. Further investigation is needed to analyze these cases by the number and types of issues involved to see how such factors impact case processing time. While the percentage of over-standard cases among most of the divorce-related cases (divorce absolute, divorce limited, annulment of marriage, and custody, except for visitation) seems to be declining, that of paternity/child support cases and appointment of guardian cases shows signs of increase. The Court may also want to review the processing of these types of cases for improved efficiency. Additional examination of included versus excluded DR case sub-types should be discussed at a statewide level. While Montgomery County Circuit Court consistently meets or exceeds the statewide time standards for DR cases, it might be useful to identify whether all types of DR cases should be included in the analysis as some sub-types might have little to no court involvement (e.g., cases filed to waive court costs).

**Table C.7 Case Terminations by Main Charge, FY08-FY11**

Main Charge	All Terminations					Over-Standard Terminations					% Over-Standard/ All Cases			
	FY11		FY10	FY09	FY08*	FY11		FY10	FY09	FY08*	FY11	FY10	FY09	FY08*
	N	%	%	%	%	N	%	%	%	%	%	%	%	%
Divorce Absolute	3,470	45%	44%	46%	45%	394	75%	77%	81%	80%	11%	13%	14%	17%
Uniform Support	940	12%	12%	12%	12%	13	2%	2%	1%	2%	1%	1%	1%	2%
Change Of Name	822	11%	10%	10%	7%	24	5%	3%	3%	0%	3%	2%	2%	0%
Custody	751	10%	10%	8%	7%	31	6%	7%	7%	6%	4%	5%	6%	8%
Paternity	650	8%	8%	8%	9%	22	4%	3%	2%	0%	3%	3%	2%	0%
Appt of Guardian	363	5%	4%	3%	4%	8	2%	3%	1%	2%	2%	7%	2%	5%
Waive Court Costs	362	5%	3%	3%	4%	0	0%	0%	0%	0%	0%	0%	0%	0%
URESA	282	4%	4%	4%	5%	5	1%	1%	1%	0%	2%	3%	1%	0%
Divorce Limited	150	2%	2%	2%	2%	21	4%	4%	4%	8%	14%	20%	19%	44%
Miscellaneous Petition	52	1%	1%	1%	1%	0	0%	0%	0%	0%	0%	0%	0%	0%
Amend Marriage License	48	1%	1%	1%	1%	0	0%	0%	0%	0%	0%	0%	0%	0%
Visitation	36	<1%	1%	1%	1%	3	<1%	1%	1%	0%	8%	7%	10%	0%
Amend Birth Certificate	35	<1%	1%	<1%	1%	0	0%	0%	<1%	0%	0%	0%	4%	0%
Annulment of Marriage	27	<1%	<1%	<1%	<1%	1	<1%	<1%	1%	2%	4%	8%	20%	50%
Support	23	<1%	<1%	<1%	<1%	1	<1%	0%	0%	0%	4%	0%	0%	0%
Other	23	<1%	1%	1%	1%	0	0%	0%	0%	0%	0%	0%	0%	NA
Total	7,776	100%	100%	100%	100%	523	100%	100%	100%	100%	7%	8%	8%	10%

Note: Percentages do not always add to 100% due to rounding.

\*Based on a sample of 510 domestic relations cases.

### *Summary of Domestic Relations Findings*

- After a slight decline between FY08 and FY09, the overall number of DR case terminations increased to 7,776 for FY10. The terminations continued to increase, reaching 8,034 in FY11. For FY11, the Court met the statewide case processing goals for DR cases by closing 93% of such cases within the state's 12-month time standard and closing over 99% of its DR cases within the 24-month time standard. The overall ACT for DR cases was 144 days (150 days for FY10 and 148 days for FY09), the within- and over-standard ACTs (under the 12-month standard) were 119 days (121 days for FY10 and 117 days for FY09) and 498 days (494 days for FY10 and 505 days for FY09), respectively.
- As observed in FY10, close to one-third (29%) of all DR terminations were from Track 1 in FY11, and another 44% of the terminations were cases assigned to Track N, 10% assigned to Track 2, and 10% assigned to Track 0. Cases in these tracks, except for Track 2, were characterized with a relatively short ACT and a high percentage of cases closed within-standard. Cases in Tracks 0, 1, and N accounted for over 80% of the DR cases.
- During FY11, 2% of the cases with original terminations experienced at least one trial postponement. Trial-postponed DR cases were found almost exclusively among Tracks 2 and 3 because of the nature and complexity of the issues in the cases assigned to these tracks. As observed in previous fiscal years, only 16% of the over-standard cases were postponed.
- Close to half (47%) of the DR cases originally terminated in FY11 involved divorce (absolute or limited divorce), and among over-standard cases 80% are cases that contained divorce-related issues.

### *Recommendations for Montgomery County Circuit Court*

- Conduct a more in-depth analysis of its case processing performance for Track 2 and Track 3 cases by examining how well these cases were processed against the current DR DCM guidelines and identifying at which stage of the case that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further slippage. Evaluate the current case processing practices of Track 2 and Track 3 cases to devise intervention measures to reduce the time used with processing these cases.
- Conduct case processing performance by case sub-type to obtain a clearer picture of DR case processing performance and identify a group of cases of certain sub-type that may require the Court's attention. In particular, perform a more fine-grained analysis of case processing of divorce absolute and divorce limited.

- Revise the current postponement-related analysis by limiting the study population by excluding those sub-types that will not involve trials and/or focusing on the cases that actually reached trials to more accurately assess the impact of trial postponements on the case processing performance. In addition, review the circumstances under which trials were postponed due to ‘calendar conflict’ for trials that are normally scheduled to accommodate parties’ availability.
- Focusing on the over-standard cases without trial postponements, which account for 84% of over-standard termination cases in FY11, and examine the impact of pre-trial postponements and other possible factors on processing of those cases. With regard to the analysis of event-specific postponements, separately examine cases that had an event in question and those that did not to obtain a more accurate picture of the impact of postponements on the case processing performance.
- Convene a meeting with Data Processing to discuss how key case assessment variables are captured in particular case stop date and sub-type. It is important to also ensure that variable names accurately reflect the data being extracted. For instance, the subtype variable in the case assessment data appears to reflect the main charge in the case as opposed to the subtype defined in the Court’s data processing system.

#### *Recommendations for Circuit Court Time Standards Sub-Committee*

- The Time Standards Sub-Committee may want to investigate at what point courts are closing DR cases, particularly when a post-judgment motion(s) is filed before the case is closed. In these instances, the Court keeps cases open until those motions are taken care of even after a judgment regarding the main issues is rendered. If the judgment is the case stop date, the codes associated with this judgment need to be included in the FY11 Circuit Court Caseflow training manual, as well as discussed at the FY12 Circuit Court Caseflow training sessions.
- Certain suspensions such as interlocutory appeals do not necessarily inactivate a case. In such situations, courts can and do move forward with the case, and it may not be appropriate to exclude such time from the calculation of the case processing time. The Time Standards Sub-Committee is requested to address this issue and develop guidelines as to how it should be handled.
- Because of the separation period required by law, parties seeking absolute divorce often obtain limited divorce and then absolute divorce. It is not clear how circuit courts are handling these cases, in particular whether they administratively close those cases when parties are granted limited divorce and immediately reopen these cases to proceed with the absolute divorce, or they keep the cases open until the parties are granted the judgment of absolute divorce.
- With the passage of Maryland Senate Bill 139, which amended Section 7-103 (a) and (c) of the Family Law Article of the Maryland Code, the General Assembly decided to abolish voluntary separation and change the separation period for an involuntary separation from two years to one year. In light of these legislative changes, the time standards sub-committee may want to discuss the merits of two time standards for family cases (the 12-month and 24-month standards). Confusion continues to exist about the application of the 12-month and 24-month time standards to all DR cases. However since the separation period is now reduced to 1 year, the merits of having the 24-month time standard, which was originally intended to be applied to divorce cases only appear to have diminished.
- Statewide analysis of the DR sub-types (or main changes) included in the data should be undertaken to ensure that case processing performance is reflective of cases that the Court is actively processing as opposed to purely administratively tracked cases.



# Juvenile Delinquency Case Terminations

## Fiscal Year 2011 Case Terminations

### D. Juvenile Delinquency Case Processing Definitions and Summary

	Juvenile Case Time Definitions	Percent Within 3-month (90 day) Standard	Additional Montgomery County Measurements†
Juvenile Delinquency Case Standards and Montgomery County Measures			<u>Original Offense Date to Filing:</u> CY 2001: N/A CY 2002: 128 days CY 2003: 127 days FY 2005: 109 days FY 2006: 101 days FY 2007: 112 days FY 2008*: 116 days FY 2009: 103 days FY2010: 102 days FY2011: 96 days
	<u>Case Time Start:</u> First appearance of respondent or entry of appearance by counsel.  <u>Case Time Stop:</u> Disposition (jurisdiction waived, dismissal, stet, probation, facts sustained, facts not sustained, NP, NCR finding).	<u>State-Set Goal:</u> 98%  <u>Montgomery County:</u> CY 2001: N/A CY 2002: 99% CY 2003: 98% FY 2005: 99% FY 2006: 99% FY 2007: 98% FY 2008*: 95% FY 2009: 96% FY2010: 96% FY2011: 97%	<u>Filing to First Appearance:</u> CY 2001: N/A CY 2002: 28 days CY 2003: 28 days FY 2005: 24 days FY 2006: 21 days FY 2007: 22 days FY 2008*: 25 days FY 2009: 32 days FY2010: 40 days FY2011: 23 days <u>Filing to Case Stop:</u> CY 2001: N/A CY 2002: 60 days CY 2003: 83 days FY 2005: 70 days FY 2006: 75 days FY 2007: 77 days FY 2008*: 69 days FY 2009: 72 days FY2010: 81 days FY2011: 68 days <u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: N/A CY 2003: 43 days FY 2005: 40 days FY 2006: 40 days FY 2007: 41 days FY 2008*: 46 days FY 2009: 47 days FY2010: 45 days FY2011: 46 days

Note: Juvenile delinquency case time is suspended for bench warrant, failure to appear, mistrial, general psychological evaluation, petition for reverse waiver, competency evaluation, pre-disposition investigation report order, pre-disposition treatment program, interlocutory appeal, and military leave.

\* FY08 results are based on a sample of 510 juvenile delinquency cases.

†For CY2001-CY2003 and FY2005-FY2009, the additional measures were calculated by Data Processing based on its sample except for the average case processing time. However, for FY2010 and FY2011, the additional measures were calculated by the Court Researchers using the full population of juvenile delinquency case terminations. For the additional measure "Filing to Case Stop" suspension time was subtracted from the raw case time.

## Overall Juvenile Delinquency Case Terminations

In Fiscal Year 2011 (FY11), the Montgomery County Circuit Court terminated a total of 1,092 juvenile delinquency cases, which is a 17% reduction from the number of case terminations in FY10 (n = 1,316). The state-defined time standard and associated goal for juvenile delinquency cases is to close 98% of these cases within 90 days from first appearance of the respondent or appearance of respondent's counsel to disposition. Between FY04 and FY07, 98-99% of juvenile delinquency cases closed within the 90-day standard, and the average case processing time (ACT) was 40-43 days. However, in FY08, the within-standard percentage fell to 95%, and the ACT increased to 46 days. In FY09, the within-standard percent slightly improved to 96%, but the ACT increased to 47 days. In FY10, the within-standard percentage remained at 96% and the ACT improved to 45 days. In FY11, the within-standard percentage slightly improved to 97%; however, the ACT increased slightly to 46 days.

The FY11 ACT among within-standard cases increased to 44 days, compared to 42 days reported in FY10 and 43 days reported in FY09. The over-standard ACT improved to its lowest level (i.e., 111 days) since reporting juvenile delinquency case processing data in FY04. Between FY04 and FY11, the over-standard ACT improved by 44% from 198 days to 111 days. The continued improvement in the over-standard ACT since FY10 reverses an increasing trend that began in FY07.

**Table D.1 Number of Juvenile Delinquency Case Terminations FY04-FY11**

Fiscal Year	Terminations		Within-Standard Terminations 3-month (90 days) Standard			Over-Standard Terminations 3-month (90 days) Standard		
	N	ACT*	N	% of		N	% of	
				Total	ACT*		Total	ACT*
FY04	1,521	43	1,490	98%	39	31	2%	198
FY05	1,431	40	1,416	99%	39	15	1%	122
FY06	1,651	40	1,634	99%	39	17	1%	143
FY07	1,485	41	1,455	98%	40	30	2%	119
FY08**	(510)	46	(484)	95%	42	(26)	5%	127
FY09	1,384	47	1,324	96%	43	60	4%	134
FY10	1,316	45	1,261	96%	42	55	4%	113
<b>FY11</b>	<b>1,092</b>	<b>46</b>	<b>1,059</b>	<b>97%</b>	<b>44</b>	<b>33</b>	<b>3%</b>	<b>111</b>

Maryland juvenile case time standard and goal: 90 days and 98% within-standard terminations

\* ACT = Average Case Time, in days.

\*\* The full juvenile caseload for FY08 is 1,492. The 510 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

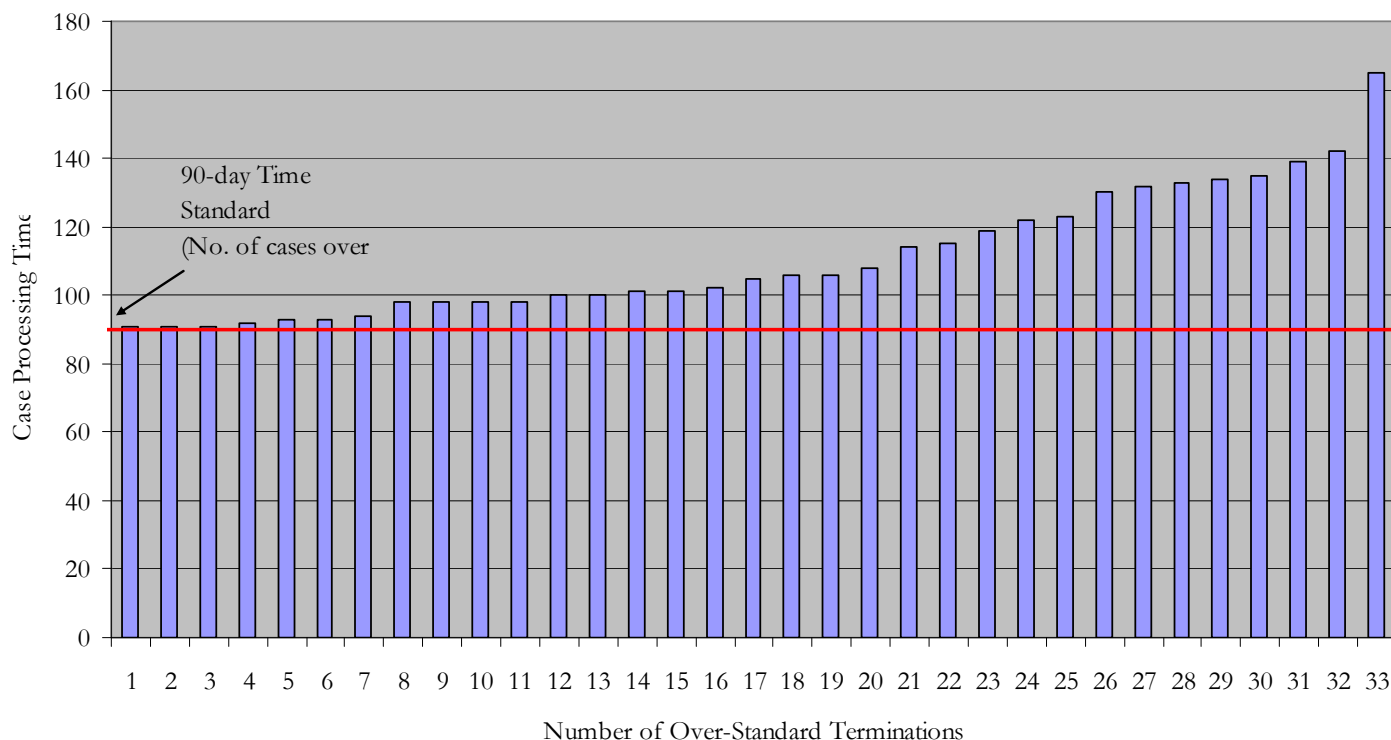
Table D.2 presents the distribution of over-standard juvenile delinquency cases for FY07-FY11. A substantial increase in both the mean and median case times between FY07 and FY08 underscores the decline in the Court's juvenile delinquency case processing performance from 98% to 95% that occurred between these two fiscal years. In comparison, between FY08 and FY11, the median case time improved by 10 days and the ACT improved by 16 days. The case times distributed across the 25th, 75th, 90th, and 95th percentile figures also show improvements to varying degrees between FY08 and FY11. In fact, most of the case times generated from the FY11 data shown in Table D.2 are at their best since FY07.

**Table D.2 Distribution of Over-Standard Juvenile Delinquency Cases, FY07-FY11**

Year	N	Mean	Median	Percentile						
				5	10	25	75	90	95	Max
FY07	30	119	107	92	94	95	134	171	178	179
FY08*	26	127	112	92	92	96	143	173	179	254
FY09	60	134	112	91	92	99	139	164	246	491
FY10	55	113	103	91	92	93	128	150	168	177
FY11	33	111	102	91	91	97	127	137	149	165

\*Based on a sample of 510 juvenile delinquency cases.

In addition, 12% of the FY11 over-standard cases were 2 days over the 90-day standard and 21% were no more than a week (7 days) over the time standard. Investigating these cases and devising plans to close cases similar to these within-standard may be a viable option to improve the Court's juvenile delinquency case processing performance.



**Figure D.1 Distribution of Over-Standard Juvenile Delinquency Cases, FY11**

### ***Case Terminations by Track***

Juvenile Delinquency cases terminated in FY11 were processed under the guidelines of the second edition (July 2003) of the Court's Juvenile Differentiated Case Management (DCM) plan, which offers four tracks by which delinquency cases may be assigned:

Track 1: Delinquent detention/shelter care

Track 2: Delinquent non-detention

Track 5: Complex delinquent detention/shelter care

Track 6: Complex delinquent non-detention

For cases filed in July 2011, they will be assigned to either Track 1 or Track 2 per the revised Juvenile DCM Plan, which removed Tracks 5 and 6. Table D.3 provides the number of terminated cases by termination status (within-versus over-standard) and DCM Track. Similar to previous years, the vast majority (82%) of the juvenile delinquency cases are assigned to Track 2 (non-detained respondents), and the remaining to Track 1 (detained respondents). Thus, the case processing performance of juvenile delinquency cases largely hinges upon how well the Court processes cases assigned to Track 2. On average, Track 2 cases had a longer overall ACT (49 days) than Track 1 cases (31 days). The majority of cases assigned to Track 1 closed within the statewide time standard of 90-days. Cases assigned to Track 1 actually met the performance goal of 98% in FY11. Slightly fewer Track 2 cases

(97%) closed within the 90-day time standard. However, the FY11 Track 1 performance is better than what was achieved in FY10 when only 95% of the Track 2 cases closed within the 90-day time standard.

**Table D.3 FY11 Juvenile Delinquency Case Terminations by Termination Status (Within or Over the 3-month Standard) and Track**

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of WST*	% of Track	ACT*	N	% of OST*	% of Track	ACT*
Track 1	194	18%	31	190	18%	98%	30	4	12%	2%	120
Track 2	898	82%	49	869	82%	97%	47	29	88%	3%	110
Total	1,092	100%	46	1,059	100%	97%	44	33	100%	3%	111

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

### ***Case Terminations by Trial Postponements***

As displayed in Table D.4, 28% of the juvenile delinquency cases terminated during FY11 had at least one postponement of the trial (i.e., adjudication hearing) compared to 30% in FY10, 29% in FY09 and 26% in FY08. Of these postponed case, 94% closed within the 90-day time standard (91% for FY10; 93% for FY09; 91% for FY08). This decrease in the percent of terminations with postponements and associated improvement in the performance of postponed terminations may be due a firm adherence to the Court's juvenile postponement policy. In comparison, cases without trial postponements met the statewide performance goal of closing 98% of cases within 90-days. In particular, 99% of Track 1 cases without trial postponements closed within-standard and 98% of Track 2 cases without trial postponements closed within-standard. Fifty-two percent of over-standard juvenile delinquency cases were postponed in FY11 compared to 65% in FY10 and 47% in FY09. It is important to note that tracking trial postponements only provides a partial understanding of the impact of postponements on performance. Since the juvenile delinquency time standard measures case time from initial appearance to disposition, it would also be useful to capture not only the number of disposition hearing postponements but also the time between the adjudication and disposition hearing (as an additional measurement). Almost half (48%, 16 of 33 cases) of the over-standard juvenile delinquency cases did not have any adjudication postponements but still closed over-standard.

**Table D.4 FY11 Juvenile Delinquency Case Terminations by Trial Postponements, Termination Status (Within or Over the 3-month Standard), and Track**

<b><u>With Trial Postponements</u></b>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 1	194	56	29%	39	54	96%	37	2	4%	103
Track 2	898	250	28%	61	235	94%	58	15	6%	112
Total	1,092	306	28%	57	289	94%	54	17	6%	111
<b><u>Without Trial Postponements</u></b>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 1	194	138	71%	28	136	99%	27	2	1%	137
Track 2	898	648	72%	44	634	98%	43	14	2%	107
Total	1,092	786	72%	41	770	98%	40	16	2%	111

\* ACT = Average case time, in days.

Note: Percentages do not always add to 100% due to rounding.

In reviewing these cases, there are several reasons why the disposition hearing is set a month or more into the future so that the respondent is able to complete certain tasks defined by the judge including but not limited to community service, a book review, a letter to his/her guardian/parent, etc. Often times referred to as “temporary” disposition, this approach is undertaken in the hopes that the cases will be dismissed and/or the respondent will be determined to be non-delinquent. Understanding the reasons why cases close over-standard is useful when discussing the feasibility of increasing the Court’s within-standard percentage while, at the same time, ensuring that the respondent’s best interests are upheld.

Table D.5 presents the distribution of postponed juvenile delinquency cases by the number of trial postponements and termination status for FY08 through FY11. Among postponed juvenile delinquency cases, the percentage of cases with a single trial postponement has decreased between FY08 and FY11 from 96% to 89%. In contrast, the percentage of postponed juvenile delinquency cases with 2 trial postponements has increased over the same period from 4% in FY08 to 10% in FY11 after a marked decrease of 10 percentage points between FY07 and FY08 (note: FY07 data is not shown). Table D.5 also reveals that between FY08 and FY11 the percentage of postponed within- and over-standard cases has increased over time. However, despite increases in the number of postponed cases and the number of postponements among these postponed cases, the FY11 within-standard percentage of postponed delinquency cases improved to 94% from 91% achieved in FY08. It is important to note that drawing conclusions about how postponements impact case processing performance with the current data is limited because only postponements of adjudication hearings are captured in the Montgomery County Circuit Court data. As discussed above, since the setting and postponing of the disposition hearing can also impact termination status, additional data elements are necessary to accurately draw conclusions about the link between postponements and case processing performance.

**Table D.5 Number and percentage of trial postponements among juvenile delinquency cases by Termination Status, FY08-FY11**

Number of Postponements	All Cases					Within-Standard Cases					Over-Standard Cases				
	FY11		FY10	FY09	FY08*	FY11		FY10	FY09	FY08*	FY11		FY10	FY09	FY08*
	N	%	%	%	%	N	%	%	%	%	N	%	%	%	%
1	273	89%	91%	92%	96%	260	90%	93%	94%	98%	13	76.5%	67%	61%	75%
2	31	10%	9%	7%	4%	27	9%	7%	6%	2%	4	23.5%	28%	29%	17%
3	2	1%	1%	1%	1%	2	1%	---	0%	0%	---	---	6%	7%	8%
Total	306	100%	100%	100%	100%	289	100%	100%	100%	100%	17	100%	100%	100%	100%
% Postponed		28%	30%	29%	26%		27%	28%	28%	25%		52%	65%	47%	46%

Note: Percentages do not always add to 100% due to rounding.

\*Based on a sample of 510 juvenile delinquency cases.

Table D.6 presents the breakdown of 341 trial postponement reasons experienced by the 306 postponed juvenile delinquency cases. In FY11, the primary reason for postponing an adjudicatory hearing in juvenile delinquency cases is “Calendar Conflict – Party Needs to Get Affairs in Order” (80%). The most frequently cited postponement reasons among over-standard juvenile delinquency cases include: “Calendar Conflict” (48%) and to a much lesser extent “Defendant/Respondent/Plaintiff Not Transported/Writ Never Requested” (10%), “Reports and Evaluations Not Completed/Re-Evaluation Ordered” (10%), and “Vacation Plans/Religious Reasons” (10%).

**Table D.6 Trial Postponement Reasons by Termination Status, FY11**

Postponement Reason	All Cases		Over-Standard Cases		% of Over-Standard/All Cases
	N	%	N	%	
Calendar Conflicts	274	80%	10	48%	4%
Pending Motions to Be Heard or Ruled on	16	5%	1	5%	6%
Increase/Decrease Court Time/Track Change/to Trail					
Behind another Case	2	1%	--	--	--
Discovery/ADR Incomplete and/or Discovery					
Disputes/Additional Time Needed to Prepare	4	1%	1	5%	25%
Illness/Medical Emergency or Death	4	1%	--	--	--
Witness Unavailable - New Witness Identified	14	4%	1	5%	7%
Defendant/Respondent/Plaintiff Not Transported/Writ					
Never Requested	5	1%	2	10%	40%
New Counsel Sought or Has Entered their Appearance or					
Not Appointed	3	1%	--	--	--
Competency Evaluation Ordered	2	1%	--	--	--
Reports and Evaluations Not Completed/Evaluation					
Reordered	4	1%	2	10%	50%
Parent Not Present					
Police Officer Not Available	5	1%	1	5%	20%
Settlement, Plea or Reconciliation in Progress	1	0.3%	1	5%	100%
Weather/Court Emergencies/Administrative Court					
Closure	5	1%	--	--	--
Vacation Plans/Religious Reasons	2	1%	2	10%	100%
Total	341	100%	21	100%	6%

### *Summary of Juvenile Delinquency Findings*

- The Court's juvenile delinquency case processing performance for FY11 is 97%, which is slightly above the FY10 and FY09 performance of closing 96% of cases closing within 90 days.
- In FY11, the overall ACT for delinquency cases is 46 days, which is one day longer than the ACT of 45 days achieved in FY10 and one day shorter than the ACT of 47 days achieved in FY09.
  - In FY11, the within-standard ACT for delinquency cases is 44 days, which is slightly longer than the 42 days achieved in FY10 and 43 days achieved in FY09. In contrast, the FY11 over-standard ACT improved to 111 days from 113 days achieved in FY10 and 134 days achieved in FY09.
- All delinquency cases with original terminations in FY11 were assigned to either Track 1 or Track 2, with over 80% being assigned to Track 2. Similar to previous fiscal years, the assigning of delinquency cases to the Court's DCM Tracks 5 or 6 is rare. It appears that the management of Track 2 cases is critical to the maintenance of the overall processing performance of juvenile delinquency cases.
- Even though 28% of the juvenile delinquency cases experienced trial postponements in FY11, 94% of those cases closed within-standard, which is an improvement over FY10. Of the 33 over-standard cases, 52% were postponed (FY10: 65%; FY09: 47%).

### *Recommendations for Montgomery County Circuit Court*

- As discussed in several sections of this report, the reporting of trial postponements for delinquency cases is insufficient to draw conclusions about the impact of postponements on termination status. The case stop date in juvenile delinquency cases is disposition and therefore, any postponements of the disposition hearing should be captured for the case assessment analysis. In fact, any postponements that could impact the case processing time should be captured in the case assessment data regardless of whether postponement reasons are available for these postponements.
- The current statewide delinquency time standard is broad in that all delinquency cases regardless of whether respondents are detained or not detained are held against a 90-day time standard (from first appearance or

appearance of counsel to disposition). However, the Maryland Rules provide alternative time restrictions on the processing of delinquency cases that may provide the Court with insight on the types of cases closing over-standard and the stage in the case where performance begins to slip. It would be useful to know whether cases of detained or non-detained respondents are more likely to close over-standard and whether cases are closing over-standard prior to adjudication or between adjudication and disposition. It is important to understand the reasons cases are closing over-standard because that information can provide insight on possible efficiency gaps in court processes and practices.

- The statewide assessment application requests that courts report whether the defendant/respondent is represented at the end of the case. For FY2011, Montgomery County Circuit Court has 4% of its delinquency cases without representation at case disposition. It is unclear what one can conclude from this information because lack of representation at disposition does not necessarily mean that the respondent can be characterized as a self-represented litigant. Based on a review of the data contained in this variable, there were a few instances where the respondent's counsel never entered his/her line of appearance. To address this issue, the Clerk's Juvenile Department will begin receiving a report that displays the cases where no appearance has been entered for the respondent, and an effort will be made (where appropriate) to obtain that line of appearance. It may be useful to have documentation outlining those instances/delinquency cases where a line of appearance is appropriate/necessary in a juvenile delinquency case. Provided below is also a recommendation for the time standards sub-committee related to this variable.
- The statewide assessment application requests that courts indicate the "Adjudication/Disposition Type" for juvenile delinquency cases. Montgomery County Circuit Court has identified six possible values for this variable: DI (Dismissed), IN (Involved), OT (Other), PW (Petition Withdrawn), ST (Stet), and WA (Waiver to Adult Court). Fifty-six percent of the delinquency terminations have an "Involved" disposition code and 41% have a "Dismissed" disposition code. In reviewing these cases in relation to their defined disposition code, it became clear that the "Involved" and "Dismissed" disposition codes are not mutually exclusive. For instance, a respondent may be found "involved" at the adjudication hearing and then be found "not delinquent" at the disposition hearing resulting in a dismissal of the case. While this is not a required data element for calculating case time, it is identified as mandatory by the Maryland Judiciary Assessment Application Records Field document. It is also important that Montgomery County Circuit Court is capturing this data element in accordance with the operationalization of the variable provided by the Maryland Judiciary. Questions exist about what this variable is trying to measure, and contact has been made with the Maryland Judiciary for further clarification.
- Review the variable labels contained in the Court's Aequitas database to ensure that they align with the variable labels used in the Assessment Application or (at a minimum) ensure that there are clear definitions for the variables contained in the Aequitas database. As an example, in the Aequitas database for juvenile delinquency terminations, the variable "DateSubCuria" is presumably used to measure the date the adjudication hearing was held. In the Statewide Case Assessment Application, the variable measuring the adjudication hearing date is not named "DateSubCuria" but rather "Adjudication." It would minimize confusion if the variables in the Court's Aequitas database have variable labels that mirror the labels in the Assessment Application.
- Ensure proper documentation is available (for all case types) that clearly identifies how the "attorney of record" for the respondent/defendant is defined in the Court's data system, and how the "attorney of record" for the respondent/defendant aligns with the court's docket entries indicating that the respondent is represented at scheduled court events.
- Review the data fields printed on the juvenile delinquency audit form to ensure that the program requirements for data extraction align with the data extraction for the same variables used in the analysis for the annual case assessment. There are instances where the suspension end dates contained on the audit form are being populated with the case stop date when this is only appropriate in instances whether the case closed via dismissal or Nol Pros.
- As noted in the previous year's report, challenges were encountered when performing the data quality review on juvenile delinquency cases specifically as it relates to the presence/absence of caseflow-defined suspension start and end dates. Similar to FY10, these challenges encountered in FY11 relate to the programming of how suspension end dates are being populated for the Pre-Disposition Investigation (PDI) report and Pre-Disposition Treatment (PDT) program suspension events. While modifications have been made to the

programming of these events, additional discussion is required. The court researchers plan to discuss this issue in more detail with the Clerk's Juvenile Department Manager, the Supervising Juvenile Case Manager, and the Data Processing Department to determine whether alternate procedures need to be instituted to address gaps in data collection and the extraction of suspension-related data fields from the data system.

- Currently the assessment uses a single 90 day time standard for both juvenile delinquency detention and non-detention case terminations. As discussed below, in order to more precisely measure how the Court processes juvenile cases, consider distinguishing juvenile delinquency cases by detention versus non-detention and assess case processing performance based on the time standard prescribed in Maryland Rules.

#### *Recommendations for the Circuit Court Time Standards Sub-Committee*

- Consider modifying the juvenile delinquency time standard to align with the Maryland Rules for detained and non-detained respondents. The current standard of 90-days is very broad and, because it does not align with the Maryland Rules, causes confusion among staff and judges. According to the Maryland Rules, courts are expected to reach adjudication within 30 days from the date on which the court ordered continued detention for detained respondents (Maryland 11-114.b.2) and 60 days from the date the juvenile petition is served on the respondent (unless a waiver petition is filed) for non-detained respondents (Maryland Rule 11-114.b.1). With regard to disposition, the Maryland Rules state that disposition should be no later than 14 days after the adjudication hearing (Courts section 3-8A-15(d)(6)(ii)) for detained youth and no later than 30 days after the conclusion of the adjudication hearing (Maryland Rule 11-115.a.) for non-detained respondents. We provide the following recommendations:
  - Option 1 (Ideal): Align the delinquency time standard with the Maryland Rules for reaching adjudication and disposition for detained and non-detained respondents as described above.
  - Option 2 (Intermediate Solution): Include an "additional measurement period" in the assessment application from adjudication hearing to case stop and a variable that differentiates detained versus non-detained respondents. Also, measure the time to Adjudication in accordance with the Maryland Rules (from the date on which the court ordered continued detention for detained respondents and from the date the juvenile petition is served for non-detained respondents).
- Consider modifying the assessment application's calculation of "Adjudication Time" or providing a caveat informing users that the value does not take into account suspension time. Currently, the additional measurement of "Adjudication Time" displays the time between case start and the date the adjudication hearing was concluded. However, this time does not exclude the time associated with approved suspension events that occur between case start and adjudication (e.g., warrants for failure to appear). If the sub-committee prefers that "Adjudication Time" continue to be calculated without excluding time for approved suspension events, a notation should be made in the assessment application or in the training materials to inform users about how this variable is calculated. One of the Montgomery County Circuit Court's juvenile delinquency cases (06-J-09-001003) exemplifies why this measurement may be useful. According to the assessment application, case 06-J-09-001003 has a "Time to Disposition" (case start to disposition) of 56 days and an "Adjudication Time" of 421 days (case start to adjudication) with a 365-day difference between the two measures. This discrepancy arises because the case had a FTA/warrant suspension, which is not excluded from the "Adjudication Time." Thus, even though the adjudication and the disposition date for this case are the same, the calculation of time is markedly different. For users interested in using the adjudication time variable (contained in the assessment application) to determine whether their court is falling short of the statutory requirement of holding adjudication within 30 or 60 days from case start (assuming that case start aligns with the date the petition is served), this variable is problematic.
- The case start in delinquency cases is the first appearance of the respondent or entry of appearance of respondent's counsel. It may be useful (as a means to inform the statewide case assessment report) to consider investigating the extent to which courts differ in when first appearance or entry of appearance occurs. Such information may provide insight on some of the reasons why case processing differs across jurisdictions. For example, some counties have an open discovery policy between the State's Attorney and Defense counsel so that by the first hearing, a plea is worked out and both sides know everything there is to know in the case. Often times in this scenario the case start is the same as the case stop. In contrast, other courts hold a



preliminary hearing and/or a pre-trial hearing in an effort to reduce potential delay that may occur for not having counsel present at the adjudication hearing. For instance, in Montgomery County Circuit Court there are multiple purposes for the preliminary inquiry hearing including: 1) serving the respondent with the petition, 2) advising him/her of the right to counsel, and 3) making sure that he/she is clear about the upcoming hearing dates. Differences in court culture, practices, and policies may impact how time is measured and understanding those differences may be useful for explaining why performance differs statewide.

- Consider reviewing the purpose behind the optional variable “Respondent Represented on Stop Date.” It is unclear what one can infer from the information gathered by this variable. In juvenile cases, unless waived, a juvenile must be represented by counsel. That said, there are instances where a respondent appears at a hearing without representation for the sole purpose of having the state Noli Pros the case. In Montgomery County Circuit Court, we have several instances where a detained respondent is brought before the court for a detention hearing. A Public Defender is standing in as respondent’s counsel for that hearing only, and therefore a line of appearance for that Public Defender is not filed with the court. The State files a motion to dismiss at that time and it is granted. For the “Respondent Represented on Stop Date” variable, the value for this case is “No.” This seems at odds with the information in our system, which reflects the respondent as being “represented” by the Public Defender at the only hearing held in the case. It might be useful for additional clarification to be provided in the data requirements document or at training regarding the purpose of this measure and how courts should capture the information.
- It is our understanding that the original intent of the Pre-disposition Treatment (PDT) suspension event is to exclude time that respondents spend in a pre-disposition drug court treatment program. If this is the case, it is recommended that the sub-committee consider renaming the PDT suspension event as “Pre-Disposition Drug Court” (PDC) treatment program. If this recommendation is not acceptable it may be useful to further clarify/define in the training materials and/or on the time standards table acceptable PDTs. Courts sometimes consider community service, individual therapy that the respondent attends pre-adjudication, and other “temporary disposition” requirements as PDTs. If this is not the original intent of this suspension event, additional clarification at training and in the training materials would be useful. It might also be useful to know how many courts report this suspension event.

## Child In Need of Assistance (CINA) Fiscal Year 2011 Case Terminations

### E. CINA Case Processing Definitions and Summary

	CINA Case Time Definitions	Within-Standard Percentage	Additional Montgomery County Measurements
<b>CINA Shelter</b>	<u>Case Time Start:</u> Shelter Care Hearing, CINA Petition Granted.  <u>Case Time Stop:</u> Adjudication.	<u>State-Set Goal:</u> 100% within 30 days  <u>Montgomery County:</u> FY 2005: 71% FY 2006: 70% FY 2007: 60% FY2008: 80% FY2009: 69% FY2010: 80% FY2011: 81%	<u>Average Case Processing Time:</u> FY 2005: 30 days FY 2006: 30 days FY 2007: 35 days FY2008: 27 days FY2009: 34 days FY2010: 26 days FY2011: 26 days
<b>CINA Non-Shelter</b>	<u>Case Time Start:</u> Service of CINA Petition.  <u>Case Time Stop:</u> Adjudication.	<u>State-Set Goal:</u> 100% within 60 days  <u>Montgomery County:</u> FY 2005: 97% FY 2006: 76% FY 2007: 88% FY2008: 90% FY2009: 81% FY2010: 97% FY2011: 100%	<u>Average Case Processing Time:</u> FY 2005: 34 days FY 2006: 52 days FY 2007: 44 days FY2008: 43 days FY2009: 56 days FY2010: 39 days FY2011: 35 days
Note: CINA shelter and non-shelter case processing time is suspended for military leave and FTA/Body Attachment. The FTA/Body Attachment as a suspension event was implemented for the first time in FY11.			

### *Overall CINA Shelter/Non-Shelter Case Terminations*

A total of 216 child in need of assistance (CINA) cases had original closures<sup>13</sup> in the Montgomery County Circuit Court in Fiscal Year 2011 (FY11) (176 shelter and 40 non-shelter), which is a 12% increase in terminations from FY10 (193 original terminations) and a 28% decrease from FY09 (302 original terminations). Montgomery County Circuit Court currently has three judges who preside over child welfare cases and an additional judge who presides (part-time) over post-adjudication child welfare matters.

The state-defined time standard for CINA shelter cases is 30 days and 60 days for CINA non-shelter cases. The overall average case time (ACT) for FY11 CINA shelter cases is below the 30-day standard at 26 days, and the overall ACT for non-shelter cases is noticeably below the 60 day standard at 35 days. As shown in Table E.1, the ACT for CINA shelter cases for FY11 (26 days) is the same as for FY10, noticeably below that for FY09 (34 days), and slightly below that for FY08 (27 days). For non-shelter cases, the FY11 ACT (35 days) shown in Table E.2 is below that obtained for FY08 through FY10 (43 days in FY08, 56 days in FY09, and 39 days in FY10). Unlike FY09, which experienced the highest overall ACT among CINA non-shelter cases since data collection of child welfare cases began in FY05, FY11 had the second lowest ACT.

<sup>13</sup> For the purposes of this report, "closure" in CINA cases represents the case time stop as defined by the Maryland Judiciary for the sole purpose of the Maryland Caseflow Assessment. As such, case time stop (i.e., closure) is identified as adjudication for CINA cases.

The state performance goal for CINA shelter and non-shelter cases is to close 100% of these cases within their respective time standards. In FY11, 81% of CINA shelter cases (N = 142) closed within the 30-day time standard with an ACT of 20 days (see Table E.1). There was a 12 percentage-point increase in the within-standard performance between FY09 and FY11 (from 69% to 81%), and FY11 performance is 21 percentage-points higher than the FY07 performance level of 60%. The number of CINA shelter cases terminated in FY11 matches the number terminated in FY08 (N = 34) and is slightly above the number terminated in FY10 (N = 26). The increases or decreases in the number of case terminations does not always translate to associated increases or decreases in case time or processing performance. For example, between FY07 and FY09, 23 more cases terminated; however, case processing performance was 9 percentage points better in FY09 compared to FY07. Anticipating performance results based solely on the number of terminations may not be sufficient. In fact, there may be a certain threshold of ‘cases to be processed’ that needs to be met in a particular year before the Court’s workload has any impact on performance. Thus it appears that the link between terminations and performance is not as direct as in other case types due to factors other than workload such as the presence of sibling cases.

**Table E.1 Number of CINA Shelter Case Terminations FY05-FY11**

Fiscal Year	Terminations		Within-Standard Terminations (30-day Standard)			Over-Standard Terminations (30-day Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY05	258	30	182	71%	20	76	29%	55
FY06	192	30	135	70%	19	57	30%	57
FY07	215	35	130	60%	19	85	40%	60
FY08	173	27	139	80%	21	34	20%	52
FY09	238	34	165	69%	23	73	31%	58
FY10	131	26	105	80%	21	26	20%	47
<b>FY11</b>	<b>176</b>	<b>26</b>	<b>142</b>	<b>81%</b>	<b>20</b>	<b>34</b>	<b>19%</b>	<b>49</b>

\* ACT = Average Case Time, in days.

In FY11, the overall ACT for CINA shelter terminations is 26 days, which is similar to the ACT for FY10 and is lower than the FY09 ACT (34 days). The ACT achieved in FY11 is the lowest the Court has experienced since FY08 when the overall ACT was 27 days. There are minimal changes in the within-standard ACT between FY05 and FY07; however, that trend reversed between FY08 and FY09 when the within-standard ACT slightly increased. The within-standard ACT returned back to the FY08 level in FY10 and reduced slightly in FY11. Prior to FY08, the Court experienced a slight, continual increase in the ACT for over-standard CINA shelter cases. That pattern reversed between FY07 and FY08 revealing a decrease of 13% in the ACT for these cases, and then reverted back to its pre-FY08 pattern by revealing a 12% increase in the over-standard ACT between FY08 and FY09. Improvements in CINA shelter performance between FY09 and FY11 lead to an improvement in the over-standard ACT by 19% between FY09 and FY10 and 16% between FY09 and FY11.

There were more over-standard CINA shelter terminations in FY11 compared to FY10 (31%). There were also 34% more CINA shelter terminations in FY11 compared to FY10 (176 versus 131, respectively). In reviewing the CINA shelter workload, the data reveals that the number of CINA shelter (original) filings also increased from 142 in FY10 to 172 in FY11, which reflects a 21% increase. As noted above, the number of terminations (or filings) may not directly explain changes in case processing performance; however, such information is useful in order to provide a more complete picture of the Court’s case processing activities.

When reviewing the over-standard CINA shelter cases, the largest culprit appears to be postponements of the adjudication hearing. In fact, as shown in Table E.5a, all of the over-standard CINA shelter cases had an adjudication hearing that was postponed. All cases with two or more postponements were over-standard; however, 40% of cases with one postponement closed within-standard. As noted in Table E.3, the longest CINA shelter case time was 94 days in FY11. This case had three adjudication hearing postponements. The first postponement, which was due to calendar conflicts, extended the adjudication hearing by 14 days. The second postponement (due to illness, medical emergency or death) extended the adjudication hearing by another 35 days, and the third

postponement (due to the judge being unable to reach the court event – illness, scheduling conflict) extended the case by another 24 days. There are legitimate reasons for a case to close over-standard (as described by several of the postponements reasons). It is incumbent upon the Court to examine the reasons cases are closing over-standard and determine whether such reasons are appropriate given the importance of administering justice in cases and processing them efficiently.

**Table E.1a Annual Changes in the Number of CINA Shelter Case Terminations FY05-FY11**

Annual Change	Total Terminations		Change In Within-Standard Terminations		Change in Over-Standard Terminations	
	N	ACT*	N	ACT*	N	ACT*
FY05-FY06	-66 (-26%)	0 (0%)	-47 (-26%)	-1 (-5%)	-19 (-25%)	2 (4%)
FY06-FY07	23 (12%)	5 (17%)	-5 (-4%)	0 (0%)	28 (49%)	3 (5%)
FY07-FY08	-42 (-19%)	-8 (-23%)	9 (7%)	2 (10%)	-51 (-60%)	-8 (-13%)
FY08-FY09	65 (38%)	7 (26%)	26 (19%)	2 (9%)	39 (115%)	6 (12%)
FY09-FY10	-107 (-45%)	-8 (-24%)	-60 (-36%)	-2 (-9%)	-47 (-64%)	-11 (-19%)
<b>FY10-FY11</b>	<b>45 (34%)</b>	<b>0 (0%)</b>	<b>37 (35%)</b>	<b>-1 (-5%)</b>	<b>8 (31%)</b>	<b>2 (4%)</b>
<b>FY05-FY11</b>	<b>-82 (-32%)</b>	<b>-4 (-13%)</b>	<b>-40 (-22%)</b>	<b>0 (0%)</b>	<b>-42 (-55%)</b>	<b>-6 (-11%)</b>

\*ACT: Average Case Time

With regard to CINA non-shelter cases, as shown in Table E.2, the FY11 within-standard percentage is 100%, which meets the state-defined performance goal for this case type. This is the first year since reporting statewide performance data for CINA non-shelter cases that Montgomery County Circuit Court met the statewide performance goal. The ACT for within-standard CINA non-shelter cases between FY05 and FY11 has oscillated between 33 days (as a low) and 41 days (as a high). In FY11, the within-standard ACT is 35 days, which is two days lower than that achieved in FY10 (37 days). The number of FY11 CINA non-shelter terminations (N = 40) is the lowest it has been since reporting case processing information for this case type.

**Table E.2 Number of CINA Non-Shelter Case Terminations FY05-FY11**

Fiscal Year	Terminations		Within-Standard Terminations (60-day Standard)			Over-Standard Terminations (60-day Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY05	61	34	59	97%	33	2	3%	64
FY06	51	52	39	77%	41	12	24%	87
FY07	48	44	42	88%	39	6	13%	76
FY08	73	43	66	90%	37	7	10%	105
FY09	64	56	52	81%	36	12	19%	140
FY10	62	39	60	97%	37	2	3%	82
<b>FY11</b>	<b>40</b>	<b>35</b>	<b>40</b>	<b>100%</b>	<b>35</b>	<b>---</b>	<b>---</b>	<b>---</b>

\* ACT = Average Case Time, in days.

Understanding the reasons for improvements in CINA non-shelter cases over time requires an examination of case characteristics. To continue meeting the statewide performance goal for this (as well as other) case types, it would be useful to examine the characteristics of all terminated CINA non-shelter cases for the past few years. As mentioned above, the Juvenile Department has three judges presiding over child welfare cases with another judge working in a part-time capacity. Since the involvement of this part-time judge in FY10, the performance of CINA cases has improved. It would be useful to identify those specific practices that may have contributed to the improved performance. There are likely some reasons for the improved performance that lie outside the Court's control such as the presence of less complex/sibling cases in one fiscal year compared to another or the number of CINA petitions being filed by the Department of Social Services (DSS). The number of original CINA non-shelter filings between FY05 and FY11 has reduced by 37% from 71 to 45, respectively. In fact, between FY09 and FY10 the number of original CINA non-shelter filings reduced from 85 to 61. In FY11, the number of filings reduced further to 45. When the number of CINA non-shelter filings begin to increase, it will be interesting to see how the

Court responds. Ideally, the procedures and practices in place to efficiently manage these cases now will prepare the court for when the filings rebound.

**Table E.2a Annual Changes in the Number of CINA Non-Shelter Case Terminations FY05-FY11**

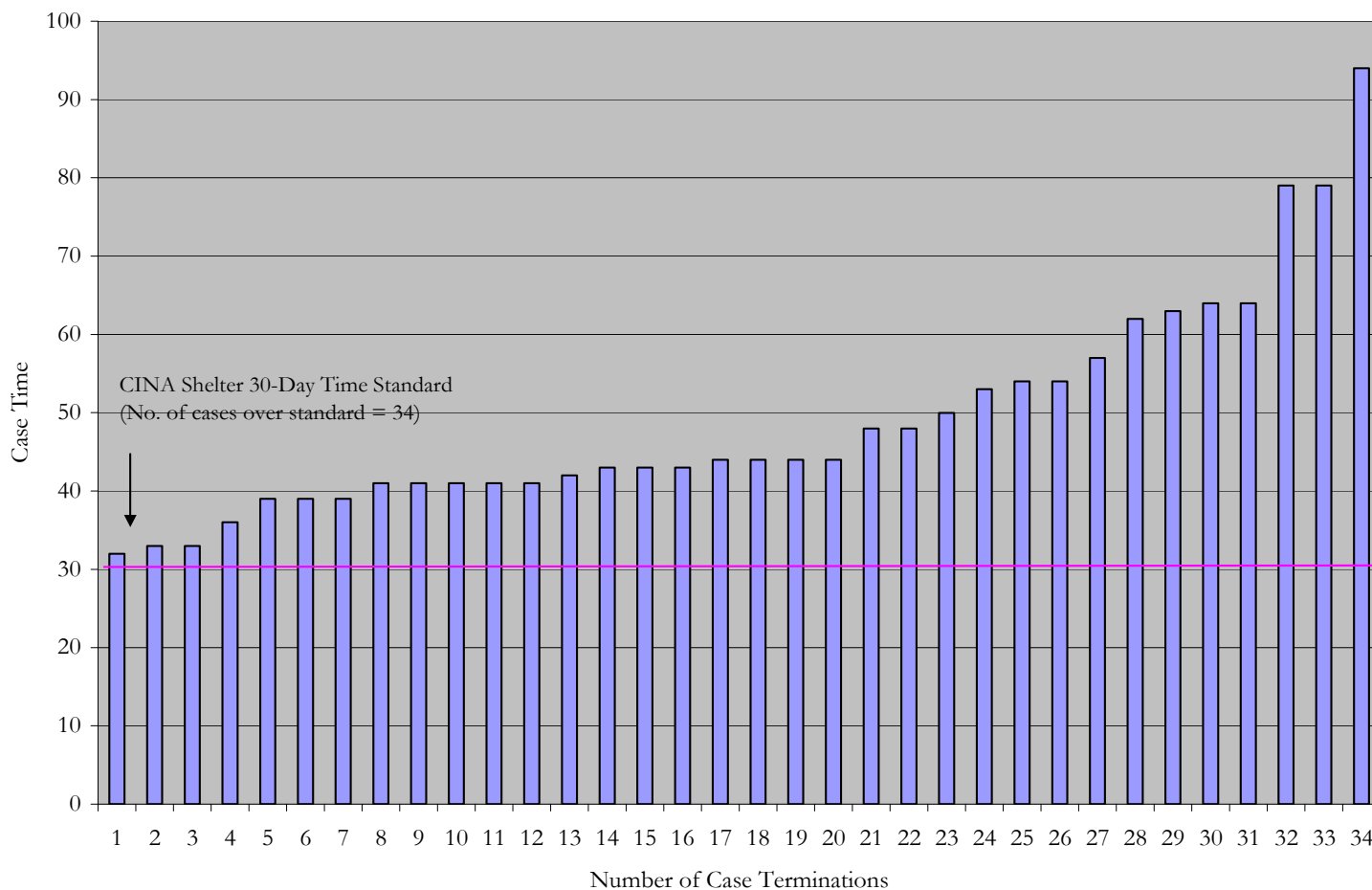
Annual Change	Total Terminations		Change In Within-Standard Terminations		Change in Over-Standard Terminations	
	N	ACT*	N	ACT*	N	ACT*
FY05-FY06	-10 (-16%)	18 (53%)	-20 (-33%)	8 (24%)	10 (500%)	23 (36%)
FY06-FY07	-3 (-6%)	-8 (-15%)	7 (18%)	-2 (-5%)	-6 (-50%)	-11 (-13%)
FY07-FY08	25 (52%)	-1 (-2%)	24 (57%)	-2 (-5%)	1 (17%)	29 (38%)
FY08-FY09	-9 (-12%)	13 (30%)	-14 (-21%)	-1 (-3%)	5 (71%)	35 (33%)
FY09-FY10	-2 (-3%)	-17 (-30%)	8 (15%)	1 (3%)	-10 (-83%)	-58 (-41%)
<b>FY10-FY11</b>	<b>-22 (-35%)</b>	<b>-4 (-10%)</b>	<b>-20 (-33%)</b>	<b>-2 (-5%)</b>	<b>0 (0%)</b>	<b>---</b>
<b>FY05-FY11</b>	<b>-21 (-34%)</b>	<b>1 (3%)</b>	<b>-19 (-32%)</b>	<b>2 (6%)</b>	<b>0 (0%)</b>	<b>---</b>

\* ACT = Average Case Time, in days.

**Table E.3 Distribution of Over-Standard CINA Shelter Cases by Clock Time and Track, FY11**

Fiscal Year	N	(% OST)	Mean	Median	Percentile						
					5	10	25	75	90	95	Max
FY07	85	(40%)	60	56	37	40	45	62	80	129	171
FY08	34	(20%)	52	52	31	33	42	62	66	70	83
FY09	73	(31%)	58	52	34	35	41	52	67	83	107
FY10	26	(20%)	47	45	32	34	35	55	68	72	74
FY11	34	(19%)	49	44	33	35	41	55	72	83	94

In FY10, CINA shelter and non-shelter performance reached their highest levels since FY08 and FY05, respectively. FY11 case processing performance for child welfare cases surpassed the performance achieved in FY10. As discussed in last year's report, one possible explanation for the improvements in performance is the Court's ability to adjust its practices to meet the challenges confronting the Public Defender's Office (e.g., the inability to hire private attorneys as part of their panel, which ultimately impacts their ability to attend all of the scheduled court events) and, more generally, as a result of the economic climate. Other possible explanations for improved performance between FY09 and FY11 include changes in case characteristics such as fewer sibling cases, strict adherence to the Court's postponement policy, and the continued presence of a fourth judge presiding (part-time) over child welfare cases. Additional analyses are required to identify the full cadre of case characteristics that may have impacted the termination status of CINA cases over time.



**Figure E.1 CINA Shelter Terminations that are over-standard, FY11**

#### *Case Terminations by Track*

Montgomery County Circuit Court’s Differentiated Case Management (DCM) Plan established two tracks each for CINA shelter (Tracks 3 and 7) and non-shelter (Tracks 4 and 8) cases. For both CINA shelter and non-shelter cases, there are standard tracks (Tracks 3 and 4) and complex tracks (Tracks 7 and 8). Unlike standard cases, the complex cases are presumably used for cases requiring more Court resources such as more intense case management.

As shown in Table E.4a, over-standard CINA shelter cases took over two times as long (on average) to close than the within-standard cases (49 versus 20 days, respectively). Even though the processing of complex tracked CINA shelter and non-shelter cases was lengthier compared to the processing of standard tracked CINA cases, all of the over-standard CINA Shelter cases were assigned to standard CINA shelter cases.

**Table E.4a FY11 CINA Shelter Case Terminations by Termination Status (Within or Over the 30-day Standard) and Track**

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
Track 3	168	95%	26	134	80%	94%	20	34	20%	100%	49
Track 7	8	5%	28	8	100%	6%	28	0	0%	0%	---
Total	176	100%	26	142	81%	100%	20	34	19%	100%	49

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

**Table E.4b FY11 CINA Non-Shelter Case Terminations by Termination Status (Within or Over the 60-day Standard) and Track**

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
Track 4	36	90%	32	36	100%	90%	32	--	--	--	--
Track 8	4	10%	59	4	100%	10%	59	--	--	--	--
Total	40	100%	35	40	100%	100%	35	--	--	--	--

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

### *Case Terminations by Trial Postponements*

Overall, 27% of CINA Shelter cases had at least one trial postponement in FY11, which is a noticeable decrease over FY10 (34%) and FY09 (39%). In FY11, 27% of the standard, Track 3 CINA shelter cases had a trial postponement compared to thirty-eight percent of the complex, Track 7 cases. Of the cases with trial postponements, 71% (34/48) were over-standard and all of the postponed, over-standard cases were assigned to Track 3. There were no CINA shelter cases without postponements that closed over-standard. Given the relatively short case processing time in which to close CINA shelter cases within-standard (i.e., 30 days from granting the petition to continue the child in shelter care), trial postponements have the ability to wreck havoc on the termination status of this case type. That said, not all postponed CINA shelter case lead to an over-standard termination.

Of CINA shelter cases with trial postponements, the majority had a single postponement (73%); however, this is noticeably lower than the 80% and 93% of CINA shelter cases that had a single postponement in FY10 and FY09, respectively. Similar to FY10, 21% of postponed CINA shelter cases had 2 trial postponements (see Table E.6a). Also, similar to the previous fiscal years, the most frequently cited trial postponement reason among CINA shelter cases in FY11 is ‘Calendar Conflicts – Party Needs To Get Affairs In Order’ (N = 50, cited for all cases; N = 36, cited for over-standard cases), followed distally by ‘New Counsel Sought Or Has Entered Their Appearance Or Not Appointed’ (N = 4, cited for all cases; N = 4, cited for over-standard cases).

**Table E.5a FY11 CINA Shelter Case Terminations by Trial Postponements, Termination Status (Within or Over the 30-day Standard), and Track**

<b><u>With Trial Postponements</u></b>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 3	168	45	27%	44	11	24%	29	34	76%	49
Track 7	8	3	38%	28	3	100%	28	---	---	---
Total	176	48	27%	43	14	29%	29	34	71%	49
<b><u>Without Trial Postponements</u></b>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 3	168	123	73%	19	100	81%	19	--	--	--
Track 7	8	5	63%	28	5	100%	28	--	--	--
Total	176	128	73%	19	128	100%	19	--	--	--

\* ACT = Average case time, in days.

As shown in Table E5b, 25% of the CINA non-shelter cases were postponed in FY11, which is below the FY10 (39%) and FY09 (27%) figures. Since all of the CINA non-shelter cases that terminated in FY11 closed within-

standard, postponements had no impact on termination status. Only 10 FY11 CINA non-shelter cases had a single postponement and, despite the presence of a postponement, all of these cases closed within standard. These findings highlight the complex relationship between postponements and performance. According to Table E.7b, the most frequently cited reason for a trial postponement among postponed non-shelter cases is ‘Calendar Conflicts – Party Needs To Get Affairs In Order’ (N = 8, cited for all cases).

**Table E.5b FY11 CINA Non-Shelter Case Terminations by Trial Postponements, Termination Status (Within or Over the 60-day Standard), and Track**

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		% of			% of			% of		
		N	Total	ACT*	N	Track	ACT*	N	Track	ACT*
Track 4	36	6	17%	43	6	100%	43	---	---	---
Track 8	4	4	100%	59	4	100%	59	---	---	---
Total	40	10	25%	49	10	100%	49	---	---	---
<u>Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		% of			% of			% of		
		N	Total	ACT*	N	Track	ACT*	N	Track	ACT*
Track 4	36	30	83%	30	30	100%	30	---	---	---
Track 8	4	0	0%	---	0	100%	---	---	---	---
Total	40	30	75%	30	30	100%	30	---	---	---

\* ACT = Average case time, in days.

**Table E.6a Number and percentage of postponements among CINA Shelter cases by Termination Status, FY08-FY11**

Number of Postponements	All Cases					Within-Standard Cases					Over-Standard Cases				
	FY11		FY10	FY09	FY08	FY11		FY10	FY09	FY08	FY11		FY10	FY09	FY08
	N	%	%	%	%	N	%	%	%	%	N	%	%	%	%
1	35	73%	80%	93%	96%	14	100%	94%	100%	100%	21	62%	69%	90%	94%
2	10	21%	20%	3%	4%	---	---	6%	0%	0%	10	30%	31%	4%	6%
3	3	6%	---	3%	0%	---	---	---	0%	0%	3	9%	---	4%	0%
4	---	---	---	1%	---	---	---	---	0%	---	---	---	---	1%	---
Total	48	100%	100%	100%	100%	14	100%	100%	100%	100%	34	100%	100%	100%	100%
% Postponed		27%	34%	39%	26%	10%		17%	13%	9%		100%	100%	99%	97%

Note: Percentages do not always add to 100% due to rounding.

**Table E.6b Number and percentage of postponements among CINA Non-Shelter cases by Termination Status, FY08-FY11**

Number of Postponements	All Cases					Within-Standard Cases					Over-Standard Cases				
	FY11		FY10	FY09	FY08	FY11		FY10	FY09	FY08	FY11		FY10	FY09	FY08
	N	%	%	%	%	N	%	%	%	%	N	%	%	%	%
1	10	100%	96%	82%	74%	10	100%	100%	100%	100%	--	--	50%	63%	0%
2	0	0%	4%	18%	26%	0	0%	0%	0%	0%	--	--	50%	38%	100%
Total	10	100%	100%	100%	100%	10	100%	100%	100%	100%	--	--	100%	100%	100%
% Postponed		25%	39%	27%	37%		25%	37%	17%	30%		--	100%	67%	100%

Note: Percentages do not always add to 100% due to rounding.



**Table E.7a Reasons for Trial Postponements by Termination Status for CINA Shelter Cases, FY11**

Reason for Trial Postponement	All Cases		Over-Standard Cases		% of Over-Standard/All Cases
	N	(%)	N	(%)	
1 Calendar Conflicts	50	78%	36	72%	72%
2 New Counsel Sought or Has Entered Their Appearance or Not Appointed	4	6%	4	8%	100%
3 Illness, Medical Emergency, or Death	3	5%	3	6%	100%
4 Increase/Decrease Court Time/Track Change/Postpone Behind Another Case	1	2%	1	2%	100%
5 Defendant/Respondent/Plaintiff Not Transported/Writ Never Requested	2	3%	2	4%	100%
6 Witness Unavailable – New Witness Identified	2	3%	2	4%	100%
7 Parent Not Present	1	2%	1	2%	100%
8 Judge Unable to Reach Court Event (e.g., illness, scheduling conflict)	1	2%	1	2%	100%
Total	64	100%	50	100%	78%

Note: Percentages do not always add to 100% due to rounding.

**Table E.7b Reasons for Trial Postponements by Termination Status for CINA Non-Shelter Cases, FY11**

Reason for Trial Postponement	All Cases		Over-Standard Cases		% of Over-Standard Reasons/All Reasons
	N	(%)	N	(%)	
1 Calendar Conflicts	8	80%	0	---	---
2 Increase/Decrease Court Time/Track Change/Trail Behind another Case	2	20%	0	---	---
Total	10	100%	0	---	---

Note: Percentages do not always add to 100% due to rounding.

### *Summary of CINA Shelter and CINA Non-Shelter Findings*

- Eighty-one percent of CINA shelter cases closed within the 30-day time standard, and 100% of the CINA non-shelter cases closed within the 60-day time standard. Marked improvements in the within-standard percentages occurred between FY09 and FY10 and continued through FY11 for both CINA shelter and non-shelter cases.
- Montgomery County Circuit Court met the statewide time standard goal for CINA non-shelter cases by closing all of these cases within 60 days.
- There was no change between FY10 and FY11 in the overall ACT for CINA shelter cases and a 10% decrease in the overall ACT for CINA non-shelter cases during the same time period.
- Twenty-seven percent of CINA shelter cases had trial postponements in FY11, and 71% of those cases closed over-standard.
- In FY11, 25% of CINA non-shelter cases had trial postponements, and none of the postponed cases closed over-standard.

### *Recommendations for Montgomery County Circuit Court*

- Convene a meeting with Juvenile Department and Data Programming staff to review the Montgomery County Circuit Court docket codes that align with the data fields required by the case time standards including case start, case stop, and approved suspension events. One example of where review is required is among CINA Shelter cases where more than one shelter care hearing is scheduled. In looking specifically at over-standard CINA shelter cases (N = 34), there are six cases that had two shelter care hearings scheduled (with the initial hearing being postponed). All six cases would be over-standard regardless of what shelter care hearing date is used as the case start date. However, it is important to review this data field and others to make sure that we accurately capture the start date as defined by the Maryland time standards.

- Review the data fields printed on the CINA audit forms to ensure that the program requirements for data extraction align with the data extraction used for the same variables contained in the annual case assessment. If differences exist and these are appropriate, then ensure that the differences are documented. There are instances where the suspension end dates contained on the audit forms are being populated with the case stop date; however, this is only appropriate in instances where the case closed via dismissal or Nol Pros and this may not be appropriate for the audit forms.
- Consider creating a new variable to identify instances where cases have multiple original “case stop” dates. Some CINA cases may have multiple “case stop” dates because there could be an agreement placed on the record (case stop) for the mother in the case that occurs a month or so before the adjudication hearing date for the father. Currently, when such scenarios arise they are being corrected manually; however, extracting the correct information programmatically would be preferred.
- Court Researchers will meet with Juvenile Department staff to identify any analyses that may be of interest related to CINA cases. For instance, it may be useful to examine mediation outcomes in CINA cases.

*Recommendations for the Circuit Court Time Standards Sub-Committee*

- No recommendations are being made to the Time Standards Sub-Committee for this case type.

# Termination of Parental Rights (TPR) Fiscal Year 2011 Case Terminations

## F. TPR Case Processing Definitions and Summary

	TPR Case Time Definitions	Percent Within Standard	Additional Montgomery County Measurements
<b>TPR</b>	<u>Case Time Start:</u> TPR Petition Filed.  <u>Case Time Stop:</u> Ruling on Petition (guardianship judgment/decree).	<u>State-Set Goal:</u> 100% within 180 days  <u>Montgomery County:</u> FY 2005: 60% FY 2006: 56% FY 2007: 42% FY2008: 61% FY2009: 95% FY2010: 82% FY2011: 97%	<u>Average Case Processing Time:</u> FY 2005: 179 days FY 2006: 169 days FY 2007: 208 days FY2008: 187 days FY2009: 145 days FY2010: 150 days FY2011: 115 days
Note: TPR case processing time is suspended for interlocutory appeal and military leave.			

### Overall TPR Case Terminations

Table F.1 displays the number of original termination of parental rights (TPR) case terminations,<sup>14</sup> as well as case processing performance by termination status for Fiscal Years 2005-2011 (FY05-FY11). The number of TPR cases with original terminations in FY11 is 37, which reflects a 45% decrease over FY10 (N = 67). The number of original TPR case terminations has fluctuated over the past seven fiscal years.

**Table F.1 Number of TPR Case Terminations FY05-FY11**

Fiscal Year	Terminations		Within-Standard Terminations (180-day Standard)			Over-Standard Terminations (180-day Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY05	40	179	24	60%	129	16	40%	255
FY06	18	169	10	56%	127	8	44%	222
FY07	31	208	13	42%	134	18	58%	260
FY08	70	187	43	61%	128	27	39%	282
FY09	39	145	37	95%	143	2	5%	196
FY10	67	150	55	82%	127	12	18%	255
<b>FY11</b>	<b>37</b>	<b>115</b>	<b>36</b>	<b>97%</b>	<b>112</b>	<b>1</b>	<b>3%</b>	<b>235</b>

\* ACT = Average Case Time, in days.

The percent of TPR cases closing within-standard in FY10 is 97%, which is higher than any other performance year. Between FY10 and FY11, TPR performance improved by 15 percentage points. The overall average case time (ACT) decreased by 35 days (23%) between FY10 and FY11. The decrease in the overall ACT between FY10 and FY11 appears to be due to decreases in the within- and over-standard ACTs. In particular, the within-standard ACT for TPR cases reduced from 127 days to 112 days (12%) between FY10 and FY11. The over-standard ACT reduced by 20 days from 255 days in FY10 to 235 days in FY11 (8%). The decrease in the overall ACT may also be attributed to the fact that the Court processed markedly fewer TPR cases in FY11 compared to FY10 (45%).

<sup>14</sup> For the purposes of this report, “closure” in TPR cases represents the court’s final order of guardianship as defined by the Maryland Judiciary for the sole purpose of the Maryland Caseflow Assessment.

However, it is important to note that the total number of TPR terminations doesn't by itself explain why TPR performance varies over time. In fact, more important than the number of TPR cases processed may be the composition of those cases. For instance, in FY10, the reason for two cases closing over-standard appears to be because of a stay order pending the resolution of an appeal in the original CINA cases. A slightly different situation occurred in FY11 when the execution of judgment in the only over-standard TPR case was stayed by the Maryland Court of Special Appeals. The original trial date in this case was scheduled for March 21, 2011 (140 days following the petition); however, due to the stay pending the appeal decision, the trial date was held on June 8, 2011 (219 days following the petition) and the final order of guardianship wasn't obtained until June 24, 2011 (235 days following the petition). If this case was not stayed, it may have closed within-standard and Montgomery County Circuit Court would be in 100% compliance with the statewide TPR performance goal.

### *Trend in TPR Case Terminations*

Table F.2 displays the annual changes in the number of terminations and case processing performance of TPR cases since FY05. As shown in Table F.1, the total number of TPR cases terminated annually has been quite variable. The number of original terminations in FY11 is comparable with FY09, FY07, and FY05 whereas the number of original terminations in FY10 is most comparable to FY08. The total number of terminations experienced in FY06 (N = 16) and FY08 (N = 80) appears to reflect the lower and upper bounds, respectively of total TPR terminations. Between FY05 and FY11, there has been an 8% decrease in the number of TPR terminations, and a 36% decrease in the overall ACT (See Table F.2). Among within-standard TPR terminations there has been a 50% increase between FY05 and FY11, whereas among over-standard TPR terminations there has been a 94% decrease during the same time period. The 23% decrease in the number of TPR terminations between FY10 and FY11 may be due to a variety of reasons including changes in how agencies such as the Department of Health and Human Services are handling the filing of TPR petitions. Between FY10 and FY11, the number of TPR filings decreased by 37% from 60 to 38 filings.

**Table F.2 Annual Changes in the Number of TPR Case Terminations FY05-FY11**

Annual Change	Total Terminations		Change In Within-Standard Terminations (180-day Standard)		Change in Over-Standard Terminations (180-day Standard)	
	N	ACT*	N	ACT	N	ACT
FY05-FY06	-22 (-55%)	-10 (-6%)	-14 (-58%)	-2 (-2%)	-8 (-50%)	-33 (-13%)
FY06-FY07	13 (72%)	39 (23%)	3 (30%)	7 (6%)	10 (125%)	38 (17%)
FY07-FY08	39 (125%)	-21 (-10%)	30 (231%)	-6 (-4%)	9 (50%)	22 (8%)
FY08-FY09	-31 (-44%)	-42 (-22%)	-6 (-14%)	15 (12%)	-25 (-93%)	-86 (-30%)
FY09-FY10	28 (72%)	5 (3%)	18 (49%)	-16 (-11%)	10 (500%)	59 (30%)
<b>FY10-FY11</b>	<b>-30 (-45%)</b>	<b>-35 (-23%)</b>	<b>-19 (-35%)</b>	<b>-15 (-12%)</b>	<b>-11 (-92%)</b>	<b>-20 (-8%)</b>
<b>FY05-FY11</b>	<b>-3 (-8%)</b>	<b>-64 (-36%)</b>	<b>12 (50%)</b>	<b>-17 (-13%)</b>	<b>-15 (-94%)</b>	<b>-20 (-8%)</b>

\* ACT = Average Case Time, in days.

For the past several fiscal years, the Montgomery County Circuit Court has undertaken several initiatives to ensure that child welfare cases are processed not only efficiently but also in accordance with the Court's best practices and all statutory guidelines. Specifically, the following improvement initiatives were implemented mid-way through FY08:

- In order to serve parent(s) and/or guardian(s) as soon as possible and following Maryland Rule 9-104b, which requires a status hearing to be held within 60 days from filing, the Court set the initial service/status hearing and scheduled the hearing every two weeks until service was perfected. By doing this, the Court was ensuring that the issue of service compliance remained a priority.
- Scheduling hearings were held on the record with case manager involvement to minimize attempts to schedule the trial date too far into the future. Scheduling hearings were initially called scheduling conferences and were held in chambers with the judge's law clerk, the County Attorney, the parents' attorneys, and the child's attorney. At times, pressure was put on the law clerks to select trial dates beyond the time standard guidelines.

- Trial dates were automatically scheduled within 150 days of filing the petition.
- TPR mediation status hearings were implemented to allow the parties to come directly from mediation and place consents or agreements on the record, rather than requiring them to prepare and file a motion, which must then be processed and ruled upon resulting in additional time taken to process TPR cases.
- Regular meetings were held between a staff attorney from the Office of the County Attorney and certain Juvenile Court staff to track service progress in TPR cases. Bi-weekly contact was maintained with Court personnel about the status of service attempts and as soon as service was achieved the matter was set in for a scheduling hearing.

While an improvement in TPR case processing performance was achieved between FY07 and FY08, it was not until FY09 that the Court started reaping the rewards of its improvement strategies. In FY10, the Court experienced a slight decrease in the percentage of TPR cases closing within the 180-day time standard. One possible explanation for this decrease in performance between FY09 and FY10 is that some of the improvement initiatives implemented in FY08 and FY09 were relaxed or modified. In particular, during FY10, a one time status hearing to discuss service was implemented to comply with Maryland Rule 9-104b, and further discussions about service (if necessary) were to occur in the judges' chambers. This policy change replaces the initiative implemented in FY08 where a status hearing was scheduled every two weeks until service was perfected. Another modification made was to the scheduling of trial dates. As a result of increases in TPR filings, a decision was made to automatically set the trial date between 140 and 160 days as opposed to automatically setting the trial date at day 150.

A challenge often plaguing TPR performance is that the current Maryland Judiciary time standards define the case start date at the filing of the TPR petition and the case stop date at the ruling on the petition, and stipulate that the cases should close within 180 days to reflect the legislative intention, the protection of the welfare of children involved in these cases. From a judicial case processing perspective, including the time that a court is largely forced to wait and remain inactive, such as the time between case filing and service, in the calculation of case time seems to confound the accurate calculation of the case processing time. This is particularly true for TPR cases where the cases are often delayed due to difficulties in locating and serving parents. That being said, the County Attorney has been very efficient in handling the TPR petitions in Montgomery County. There is a real commitment to ensure that these cases are disposed in a timely manner.

#### *Case Terminations by Trial Postponements*

Tables F.3 through F.5 provide information on TPR trial postponements. In FY11, 43% (16/37) of TPR cases were postponed, which is similar to the percentage obtained in FY10 (43%) and markedly higher than FY09 (26%). All of the TPR cases that were postponed closed within the 180-day time standard. Ninety-four percent of postponed TPR cases had a single postponement compared to 76% postponed cases in FY10. TPR cases without postponements took longer on average to close (151 days) than those cases without postponements (88 days). The one case that closed over-standard did not have a postponement but was stayed per the Maryland Court of Special Appeals (as discussed above).

**Table F.3 FY11 TPR Case Terminations by Trial Postponements, Termination Status (Within or Over the 180-day Standard), and Track**

<b>With Trial Postponements</b>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		% of			% of			% of		
		N	Total Track	ACT*	N	Track	ACT*	N	Track	ACT*
Track 9	37	16	43%	151	16	100%	151	0	0%	---
Total	37	16	43%	151	16	100%	151	0	0%	---

<b>Without Trial Postponements</b>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		% of Total			% of			% of		
		N	Track	ACT*	N	Track	ACT*	N	Track	ACT*
Track 9	37	21	57%	88	20	95%	80	1	5%	235
Total	37	21	57%	88	20	95%	80	1	5%	235

\* ACT = Average case time, in days.

The most frequently cited reason for postponing a TPR case was ‘Calendar Conflicts – Party Needs to Get Affairs In Order’ (N = 6, times cited as a reason for all TPR cases). The second most frequently cited postponement reason is ‘Pending Motions to Be Heard or Ruled On’ (N = 4, times cited as a reason for all TPR cases).

**Table F.4 Postponed TPR Cases by the Number of Trial Postponements and Termination Status, FY08-FY11**

Number of Postponements	All Cases					Within-Standard Cases					Over-Standard Cases				
	FY11		FY10	FY09	FY08	FY11		FY10	FY09	FY08	FY11		FY10	FY09	FY08
	N	%	%	%	%	N	%	%	%	%	N	%	%	%	%
1	15	94%	76%	100%	83%	15	94%	100%	100%	76%	---	---	30%	---	92%
2	1	6%	24%	---	14%	1	6%	---	---	24%	---	---	70%	---	0%
3	---	---	---	---	3%	---	---	---	---	0%	---	---	---	---	8%
Total	16	100%	100%	100%	100%	16	100%	100%	100%	100%	---	---	100%	---	100%
% Postponed		43%	43%	26%	41%		44%	35%	27%	40%		---	83%		44%

Note: Percentages do not always add to 100% due to rounding.

**Table F.5 Reasons for Trial Postponements by Termination Status for TPR Cases, FY11**

Reason for Trial Postponement		All Cases		Over-Standard Cases		% of Over-Standard Reasons/All Reasons
		N	(%)	N	(%)	
1	Calendar Conflicts	6	35%	0	---	---
2	Pending Motions to Be Heard or Ruled On	4	24%	0	---	---
3	System-Generated Initial Trial Date Not Conformed to Counsels’ Availability	1	6%	0	---	---
4	Settlement, Plea or Reconciliation in Progress	3	18%	0	---	---
5	Party(s) Did Not Receive Notice of Court Date	3	18%	0	---	---
Total		17	100%	0	0%	---

Note: Percentages do not always add to 100% due to rounding.

### *Summary of TPR Findings*

- There are 37 TPR cases with original terminations in FY11, which represents a 45% decrease from the number of FY10 TPR terminations.
- In FY11, 97% of TPR cases closed within-standard, which is a 15 percentage-point increase over the within-standard percentage achieved for FY10. The Circuit Court has yet to meet the state defined goal of closing

100% of TPR cases within-standard; however, efforts have and are continuing to be undertaken to achieve the defined goal.

- Forty-three percent of TPR cases were postponed (16/37) in FY11, and all postponed cases were closed within-standard.
- Among postponed TPR cases, 94% of cases had a single postponement and the most frequently cited postponement reason was due to ‘Calendar Conflicts-Party Needs to Get Affairs in Order.’

#### *Recommendations for Montgomery County Circuit Court*

- Convene a meeting with the Family Division Coordinator, Supervising Juvenile Case Manager, and the Clerk’s Juvenile Department Manager to discuss additional analyses that can be used to inform TPR case processing or any other management questions of interest.
- Identify all of the data sources available that track TPR case processing to make sure that the data contained in all sources align (where appropriate).
- Review the data fields printed on the TPR audit forms to ensure that the program requirements for data extraction align with the data extraction for the same variables used in the annual case assessment analysis.
- It may be useful to examine the length of time between filing and service in TPR cases in light of changes made to the Court’s FY09 practice of holding status conferences every two weeks until service is perfected.

#### *Recommendations to the Circuit Court Time Standards Sub-Committee*

- Recommend that a suspension event for TPR cases be added to the time standards when a stay is ordered pending the resolution of an interlocutory appeal in the original CINA case. A similar suspension event (interlocutory appeal) occurs in all other case types except CINA cases. Given that the resolution of the appeal directly impacts the outcome of the case and the Court cannot move forward without its resolution, it may be appropriate exclude the time associated with this particular stay from the calculation of case time.